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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-ninth session

SUMMARY RECORD OF THE 1st MEETING

Held at the Palais des Nations, Geneva,
on Monday, 4 August 1997, at 10.30 a.m.

Temporary Chairman: Mr. EIDE
Chairman: Mr. BENGOA

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ADOPTION OF THE AGENDA

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Any corrections to the records of the public meetings of the Sub-Commission at this session will be consolidated in a single corrigendum to be issued shortly after the end of the session.

GE.97-13224 (E)

The meeting was called to order at 11 a.m.

OPENING OF THE SESSION

1. The TEMPORARY CHAIRMAN declared open the forty-ninth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

2. He had reported to the Commission on Human Rights at its fifty-third session on the Sub-Commission's work and its response to resolution 1996/25, in which the Commission had requested the Sub-Commission to review its mandate and working methods with a view to improving efficiency and avoiding duplication with the Commission, giving particular attention to rationalization of its agenda, selection and conduct of studies and reports, the functioning and mandate of its mechanisms, implementation of existing human rights standards, consideration of alleged violations of human rights and enhancement of cooperation with Commission mechanisms and all relevant treaty bodies.

3. With regard to methods of work, he had reported on the Sub-Commission's discussion of how best to use the limited time available at each session and had provided statistics to illustrate the dramatic reduction in the amount of time available for debate among the experts compared with that devoted to statements by government observers and representatives of non-governmental organizations (NGOs). To lessen the impact of such constraints, the Sub-Commission had decided to rationalize its agenda by reducing the number of items from 23 to 13.

4. As the expanding volume of documentation was often made available too late for proper study, the Sub-Commission was examining the possibility of extending the length of the session without incurring additional costs for the United Nations. In decision 1996/112, it had expressed its conviction that the time devoted to formal meetings could be reduced if the meetings were rescheduled in such a way as to leave time for in-depth study of documentation and informal consultations. Although the Secretary-General's response had been somewhat discouraging, he was convinced that some arrangement could be reached which would not entail additional costs for the United Nations.

5. With regard to methods of work concerning violations of human rights, the Sub-Commission had discussed at its previous session the practical feasibility and value of preparing a comprehensive report on such violations from all available sources, as required by Commission resolution 8 (XXIII). As opinions were divided on the matter, no decision had been taken. The same resolution invited the Sub-Commission to bring to the attention of the Commission particular situations which, in its view, revealed a consistent pattern of gross violations of human rights. Following a thorough discussion, the Sub-Commission had decided, in decision 1996/115, to avoid duplicating the Commission's work by taking no action at its forty-ninth session in respect of human rights situations which the Commission was already considering under its public procedure.

6. He had informed the Commission that, while the Sub-Commission was fully aware of the need for more thorough planning of the study programme and of the need to set priorities, it felt that further reflection was necessary both on

the number of studies and on selection and treatment. The Sub-Commission had decided, in decision 1996/113, not to propose any new study or report unless it was specifically recommended by a competent working group of the Sub-Commission. As no new study was currently proposed and final reports on practically all outstanding studies would be submitted at the forty-ninth session, the Sub-Commission would be in a position to discuss its study programme more freely and to recommend priorities in that regard to the Commission.

7. In addition to reporting on the Sub-Commission's constructive work on the administration of justice and the rights of detainees, the rights of indigenous peoples, the protection of minorities and action against contemporary forms of slavery such as child labour, the sale of children, child prostitution and child pornography, he had focused on recent work relating to economic and social rights, including the final report on human rights and extreme poverty (E/CN.4/Sub.2/1996/13) and the provisional report on the enjoyment of human rights and income distribution (E/CN.4/Sub.2/1996/14). The World Food Summit in November 1996, responding to the Sub-Commission's appeal in resolution 1996/25, had included in its Plan of Action "Objective 7.4", which was to clarify the content of the right to food and the fundamental right of everyone to be free from hunger. The Commission had strongly endorsed the active involvement by the High Commissioner for Human Rights and several United Nations human rights bodies in achieving that objective.

8. In resolution 1997/22, the Commission had expressed its appreciation of the steps taken by the Sub-Commission to reform and improve its methods of work, particularly the rationalization of its agenda, the initiation of a study on the revision of its work schedule for improved consultation among members, the decision to limit the number of new studies, the compilation of existing rules of procedure and identification of procedural questions to be resolved, and the decision to avoid duplication with the Commission's work. It had requested the Sub-Commission, inter alia, to continue reviewing its working methods with a view to enhancing efficiency and avoiding duplication, to take into account recommendations by the Commission and treaty bodies when choosing subjects for study, to facilitate participation by NGOs in its proceedings and to improve consultations with special rapporteurs undertaking studies for the Sub-Commission. It had also invited the Sub-Commission to prepare specific recommendations on its working methods for consideration by the Commission.

9. Since the establishment of the Sub-Commission 50 years previously, human rights bodies had proliferated and the Commission had developed a wide panoply of mechanisms such as thematic rapporteurs, country rapporteurs and working groups. The Sub-Commission must therefore review its role. In his view, its most important work was accomplished through the study programme and the working groups. He therefore suggested that considerable time should be spent at the current session in reflecting on how performance in both those areas could be improved. As almost all studies had been completed, there was a unique opportunity to plan a future study programme that took full account of existing needs arising from the work of the Commission and the treaty bodies, with which closer contacts should be cultivated. With regard to method, he was convinced that a collective effort was required. The person or persons

responsible for a particular study would benefit from the insights of experts representing different cultures, historical traditions and visions of the future, and follow-up would also become more effective as a result.

10. He had been struck by the important role of thematic working groups as a forum in which experts, NGOs and intergovernmental bodies could deepen their knowledge, strengthen the flow of information, promote coordination and generate enthusiasm for more purposeful action.

11. He trusted that the Sub-Commission would agree on an appropriate role at the current session that would allow it to remain in the forefront of the global promotion of human rights.

STATEMENT BY THE OFFICER-IN-CHARGE, HIGH COMMISSIONER/CENTRE FOR HUMAN RIGHTS

12. Mr. ZACKLIN (Officer-in-Charge, High Commissioner/Centre for Human Rights) paid tribute to the victims of the senseless acts of terrorism that had recently been committed in Israel, condemning in the strongest terms attacks on the life and well-being of innocent people and extending his sympathy to the families and relatives of the victims. Such acts had no justification and could only debase those who committed them. He was also appalled by the continuing violence in Algeria, which had again caused untold suffering among civilians. Those were regrettably only two recent examples of human rights violations. He condemned all ideologies that encouraged hatred and violence and led to the denial of the most fundamental human right: the right to life.

13. The Commission on Human rights, established 50 years previously as the first international body mandated to promote and protect universal human rights, had established the Sub-Commission at its first session in 1947. Over the past 50 years, the independent experts serving on the Sub-Commission, whose number had grown from 12 to 26, had done crucial work for human rights, benefiting people from all parts of the world. The Sub-Commission played a unique role as a "think-tank" for the United Nations human rights programme, and numerous studies, opinions and proposals prepared or inspired by its members had given rise to major human rights initiatives. The Working Group on Indigenous Populations and the Working Group on Minorities were recent examples of successful initiatives. Both had become global forums for experts, the relevant groups of people and representatives of Governments, United Nations bodies, international organizations and NGOs.

14. Human rights occupied a prominent place in the process of reform of the United Nations. The further integration of human rights into United Nations programmes system-wide would ensure that the Organization was more capable of meeting the needs of the international community and that the human rights programme was better equipped to pursue its goals.

15. In his report entitled "Renewing the United Nations, a Programme for Reform" (A/51/950) presented on 16 July 1997, the Secretary-General had stated that human rights were integral to the promotion of peace and security, economic prosperity and social equity and should therefore cut across the four substantive fields of the Secretariat's work programme, namely peace and security, economic and social affairs, development cooperation and

humanitarian affairs. Under the new High Commissioner for Human Rights, the Office of the High Commissioner and the Centre for Human Rights would be consolidated as the Office of the High Commissioner for Human Rights, with the Deputy High Commissioner providing assistance and management support. Although that would complete the restructuring of the human rights part of the Secretariat, reforms aimed at adapting and strengthening human rights machinery would continue in accordance with the recommendations of the World Conference on Human Rights and General Assembly resolution 48/141. In his reform proposals, the Secretary-General had announced that he would ask the High Commissioner to recommend ways and means of streamlining and rationalizing the existing machinery. Top priority would be given to strengthening and coordinating substantive and technical support for legislative bodies and monitoring committees, special procedures, special rapporteurs, special representatives and working groups. While noting that decisions in that area were the prerogative of Member States, the Secretary-General had said that the High Commissioner and he would offer, as appropriate, analysis and proposals to move the process forward.

16. The Sub-Commission had rationalized and streamlined its agenda, in accordance with Commission resolution 1997/22. The provisional agenda had been reduced by almost half and steps had been taken to revise the work schedule and to avoid duplication in taking action on human rights situations. He was confident that the Sub-Commission would persist in its efforts to that end. His Office would, in addition, be assisting it in following the Commission's recommendation that cooperation with the Commission and all other relevant bodies, including the human rights treaty bodies, should be enhanced.

17. His Office joined the Secretary-General in his appeal to the human rights community to seize the opportunity offered by the fiftieth anniversary of the Universal Declaration of Human Rights to mobilize public opinion and focus worldwide attention on the issue of human rights. His Office would endeavour to assist Governments, the United Nations system, international and regional organizations and NGOs to make preparations for the anniversary year, which would also provide a catalyst for the development of a global partnership for human rights.

ELECTION OF OFFICERS (item 1 (a) of the provisional agenda)

18. The TEMPORARY CHAIRMAN invited nominations for the office of Chairman.

19. Mr. ALFONSO MARTÍNEZ proposed Mr. Bengoa.

20. Mr. HATANO and Mr. KHALIFA seconded the proposal.

21. Mr. Bengoa was elected Chairman by acclamation.

22. Mr. Bengoa took the Chair.

23. The CHAIRMAN invited nominations for the offices of Vice-Chairman.

24. Mr. HATANO proposed Mr. Park.

25. Mr. YIMER proposed Mrs. Warzazi.

26. Mr. CHERNICHENKO proposed Mr. Maxim.

27. Mr. Park, Mrs. Warzazi and Mr. Maxim were elected Vice-Chairmen by acclamation.

28. The CHAIRMAN invited nominations for the office of Rapporteur.

29. Mrs. DAES proposed Mr. Bossuyt.

30. Mr. Bossuyt was elected Rapporteur by acclamation.

31. The CHAIRMAN said that he was honoured to have been elected Chairman of the forty-ninth session, and that he trusted he would have the requisite independence to enable all participants to express their ideas in a climate of mutual respect and tolerance. He was particularly honoured to chair the Sub-Commission, as it had played a crucial role in treating violations of human rights in his own country, Chile, for more than a decade. At one time, Chile had had the misfortune to be almost a symbol of suffering, torture, disappearances and cruel treatment in the world. In the 1970s it had been one of the most dramatic expressions of the cold war. Chilean society had seen a confrontation, not only between ideals, but also between stereotypes and interests of the great Powers that were alien to its people. The people's suffering had known no limits. Many of those cases had come to the attention of the Sub-Commission, and its resolutions had contributed to alleviating the victims' pain.

32. In 1990, a difficult yet promising democratic transition had begun - one of the many cases of negotiated transitions that typified the end of the cold war and the decade of the 1990s. Flagrant violations of human rights, arbitrary detention and disappearances had ended, democracy and republican institutions functioned in accordance with the Constitution and the rule of law. Nonetheless, the wounds of the past remained. Although efficient systems for compensation of victims had been established, all too many deeds had gone unpunished. Impunity gnawed at the heart of any society, and established a cloak of silence beneath which many wounds continued to bleed. Chile was thus a good example of the situation of human rights in the 1990s. It was also a good example of the shift in thematic concerns. The country's economy was growing year by year, but the national debate was much concerned with poverty, income distribution in an increasingly globalized economy, and the economic rights of individuals - topics that were also central to the international agenda and that of the Sub-Commission as the century drew to a close.

33. At its previous session the Sub-Commission had adopted various changes to its agenda proposed by the outgoing Chairman, changes that constituted improvements to its procedures and which had been endorsed by the Commission on Human Rights at its most recent session. That new agenda would make the Sub-Commission's sessions much more flexible. However, improvements to the agenda were not merely a question of form. The Sub-Commission must have the capacity to respond to the enormous changes occurring in the world, in international politics, and in the life of societies. It must be capable of reporting on the situation of human rights in an increasingly globalized and interconnected world in which many institutions of the cold war epoch had

ceased to have the same role or were simply no longer valid. It must be able to report on the new issues and problems affecting humankind. Throughout its history, one of the Sub-Commission's greatest strengths had been its ability to break new ground. In the Sub-Commission, topics of the utmost importance had first seen the light, detailed studies had laid the foundations for international norms. It must be a body capable of looking beyond present systems of protection and human rights norms, of asking whether those norms were an adequate response to current realities. It was a body with enormous intellectual, moral and political capacity, able to observe the contemporary world and its challenges and to elaborate preliminary proposals. It was a forum in which the most intractable problems could be treated with the calm that its members' wisdom, knowledge and independence conferred. Its capacity was immense, and it could establish a style based on dialogue and on calm analysis of the new phenomena affecting everyone's lives, regarding which no one could lay claim to possessing the absolute truth. The new agenda for the current session could contribute to improving the content of the Sub-Commission's work.

34. One of the Sub-Commission's greatest strengths was its system of inter-sessional working groups. It must thus be equal to the task of discussing their resolutions and results at its current session.

35. The Working Group on Contemporary Forms of Slavery dealt with a number of issues that now gave cause for alarm in many parts of the world. It seemed that, just as the waves of globalization and intercontinental communication in past centuries had been accompanied by old forms of slavery, so too, the new waves of globalization at the end of the twentieth century were accompanied by new forms of slavery involving trafficking in women, children and persons. Under agenda item 6, the Sub-Commission must accord a central place to consideration of the results of the Working Group's latest deliberations.

36. The Working Group on Minorities was gradually becoming perhaps the most important forum dealing with those questions within the United Nations system. The issue of minorities was another facet of the various processes of globalization, and perhaps one of the defining features of the world that was coming into being. In parallel with a globalization of patterns of consumption, production and communication, human groups were acquiring a greater sense of belonging to particular identities and cultures. That was an issue that the Sub-Commission must study, debate and seek to channel, rather than deploring. The Working Group had made considerable progress on topics such as education of minorities, the relationship between minorities and the media, and the residence of displaced persons and minorities. The issues with which it dealt were undoubtedly central among contemporary problems.

37. The Working Group on Indigenous Populations would also submit its resolutions to the Sub-Commission. Indigenous matters were a crucial theme, not only intrinsically, but also because no more appropriate forum for their consideration existed elsewhere in the United Nations system. At its current session the Sub-Commission must debate the resolutions adopted at the highly successful workshop organized by the Centre for Human Rights at Santiago, Chile, in June 1997 and attended by Mrs. Daes, Chairperson-Rapporteur of the Working Group. The contribution of the Sub-Commission would be decisive to

the achievement of indigenous aspirations concerning the International Decade of the World's Indigenous People, the draft declaration on the rights of indigenous peoples, and the establishment of the new permanent forum.

38. The Working Group on Communications had met for two weeks to review the full range of information dealt with under the 1503 procedure. That procedure grew in importance year by year, particularly where collective rights, the environment and other highly topical issues were concerned. The Sub-Commission must find time to deal with issues brought to its attention under the appropriate confidential procedure.

39. On 11 April 1997 the Commission had adopted its resolution 1997/22, on the work of the Sub-Commission. Paragraph 1 of that resolution reaffirmed that the views and perspectives of the independent experts should be appropriately reflected in the report of the Sub-Commission, as well as in the expert studies carried out under its auspices. That paragraph deserved highlighting, given that the success of the Sub-Commission depended to a large extent on its members' independence. Safeguarding that independence was the responsibility of all participants: not just members, but also observer States, international bodies and NGOs, all of which must cooperate in protecting the impartiality and independence called for by the Commission. That independence was often threatened by the pressures, going beyond the provision of information and the natural expression of opinions, to which its members were subjected, sometimes greatly to the detriment of their work.

40. The Commission had clearly requested the Sub-Commission to refrain from duplicating action by the Commission with regard to country situations under consideration under the public procedures of the Commission and, furthermore, to limit such action to exceptional cases in which new and particularly grave circumstances arose. That dictum was of the utmost importance for the treatment of item 2 of the new agenda, but it was also valid for all other items in which reference was made to countries. The officers would issue specific instructions indicating those countries concerning which no resolutions would be adopted at the current session. There was no doubt that that resolution would enormously improve the quality of the Sub-Commission's debates, enabling it to focus on the important new themes that were now of concern to humankind. He saw the resolution as exhorting the Sub-Commission to open up new topics for discussion rather than reworking old topics, and the officers would insist on its fulfilling that mandate to the full.

41. The Sub-Commission must guarantee the freedom to debate topics in a climate of mutual respect and tolerance. However, both the Commission and the Sub-Commission were aware that its work methods called for further adjustments. It was therefore to be hoped that at the current session a working group would be set up to consider ways of further improving methods of work. One of the main problems was that the purpose of statements made was often to express a particular point of view rather than contributing to the debate. It often happened that, after hearing the report of a working group or of a special rapporteur, speaker after speaker referred to the topic under consideration only tangentially, or simply ignored it, instead reiterating their own particular interests or points of view. That situation arose again and again, often to the point of driving participants out of the meeting room. While participants and observers had the right freely to express their ideas,

the Sub-Commission must respect its agenda and confine itself to the debate in progress, eliminating the sort of "dialogue of the deaf" that led nowhere. He would be ruthless in interrupting statements that had no bearing on the debate, or which referred to cases and situations already dealt with under previous items. Similarly, the use of an item as a pretext for bringing up a particular situation that added nothing to the debate would not be tolerated. For the debate to be of value, interventions must be short and to the point, and any additional information of relevance could be submitted in writing. The Sub-Commission must allow time for all its participants to exercise their creative capacity, rather than wasting time in repetitive rituals.

42. As the work of the session began, he drew strength from his conviction of the importance of the issues before it, and from his confidence that that complex body, made up of independent experts, representatives of States, NGOs and specialized agencies, was a valuable combination in advancing international norms that would help confer dignity on human life. It was his hope that all those present would weld themselves into one broad forum for debate, devoid of internal hostilities, in which differing viewpoints would contribute to achieving progress in a cumulative creative process.

MINUTE OF SILENCE IN HONOUR OF VICTIMS OF ALL FORMS OF VIOLATIONS OF HUMAN RIGHTS IN ALL REGIONS OF THE WORLD

43. The CHAIRMAN said that, by its decision 1994/103, the Sub-Commission had decided to observe at the commencement of each of its sessions a minute of silence in honour of the victims of all forms of violations of human rights in all regions of the world.

44. The members of the Sub-Commission observed a minute of silence in honour of victims of all forms of violations of human rights in all regions of the world.

ADOPTION OF THE AGENDA (item 1 (b) of the provisional agenda) (E/CN.4/Sub.2/1997/1 and Add.1)

45. Mr. ALFONSO MARTÍNEZ said that the statements by Mr. Zacklin and by the outgoing Chairman had both stressed that the Sub-Commission had reached an important juncture, at which it was called upon to "change gear". The draft provisional agenda was thus an important document, and one that he broadly supported. Nevertheless, certain items to be found in annex I of the Sub-Commission's report on its forty-eighth session (E/CN.4/1997/2-E/CN.4/Sub.2/1996/41), such as its item 16 (b), were not to be found in the provisional agenda. He thus wished formally to propose that a separate item entitled "Promotion and protection of the human rights of children and young people and prevention of discrimination against them" should be added to the provisional agenda, possibly as a new agenda item 6, with the remaining agenda items renumbered accordingly.

46. Item 10 (b) of the provisional agenda was now entitled "The right to leave and seek asylum and the right to return". That title limited the rights set forth in article 13 (2) of the Universal Declaration of Human Rights, which stated that "Everyone has the right to leave any country, including his own, and to return to his country". He thus proposed that the wording

contained in paragraph 18 (c) of annex I of the Sub-Commission's report, namely, "Right to leave any country, including one's own, and to return to one's own country" should be retained.

47. He welcomed the move to consider the situation of migrant workers and their families under agenda item 3; the elimination of racial discrimination was the most appropriate, if not the only, context within which to consider the issue.

48. He proposed that item 13 (a) should be divided into two sub-items, one on consideration of the future work of the Sub-Commission and one on consideration of the draft provisional agenda for the fiftieth session of the Sub-Commission, as they were two separate issues.

49. With regard to item 11 (a), he proposed that the review of developments should not be limited to recommendations made in earlier studies but should also cover earlier decisions of the Sub-Commission, and that the wording should be slightly altered to show that the list in item 11 (a) was not necessarily exhaustive. He welcomed the inclusion for the first time of item 11 (b) on terrorism and human rights, but emphasized the need to treat such a complex issue with care, since those regarded by some as terrorists were regarded as human rights defenders or irredentists by others.

50. Mrs. DAES asked under which agenda item the Sub-Commission was to consider its contribution to the fiftieth anniversary of the Universal Declaration of Human Rights. She proposed that a new sub-item should be included under item 7 on indigenous people and their relationship to land, a subject on which she had, in accordance with Commission decision 1997/114, prepared a working paper (E/CN.4/Sub.2/1997/17).

51. Mr. HATANO said that it would be impossible to consider fully the methods of work of the Sub-Commission (item 1 (c)) before members had had time to examine the working paper he had prepared on the subject in accordance with Sub-Commission decision 1996/114, which had been completed but which was unfortunately not yet available. He proposed that methods of work should be discussed at a later stage during the session, and said that discussion of the unresolved problems he had identified was likely to take up a full three-hour meeting.

52. The CHAIRMAN said that Mr. Hatano's point would be considered by the officers of the Sub-Commission.

53. Mr. PARK said that the provisional agenda provided a coherent grouping of the agenda items which would facilitate focused discussions and enhance the efficiency of the Sub-Commission. He particularly welcomed the inclusion of the right to development as a separate sub-item and the move to consider some issues on a biennial basis, a procedure which could be more widely used. He drew attention to a misprint in item 5 (b) of the English text, where "protection" should be changed to "participation".

54. Mrs. PALLEY said she trusted that the practical problems associated with adopting a new agenda would not stifle discussion on problematic subjects. It was also important that the compressed agenda should continue to reflect

faithfully the Sub-Commission's resolutions and decisions. For example, Sub-Commission resolution 1996/10 called for close attention to be paid to the question of the protection of migrant workers and members of their families and Sub-Commission decision 1996/102 talked specifically of "the right to leave any country, including one's own, and to return to one's own country".

55. Excluding agenda item 2 from her remarks, she said that it would be impractical to expect members to limit their statements on each agenda item to 20 minutes when some agenda items dealt with up to five different themes and several studies. Some speakers might prefer to speak for longer on areas of their own expertise and not at all on others. However, flexibility on the part of the Chairman and self-restraint on the part of members would be the best solution.

56. She agreed with Mr. Hatano that questions on methods of work, under item 1 (c), would surely arise at later stages of the debate, for instance, under items where studies were to be considered.

57. Drawing attention to Commission resolution 1997/12, in which the Sub-Commission was requested, inter alia, to take into account recommendations of the Commission on Human Rights and the treaty bodies when choosing subjects for study, she said that unless more documentation was forthcoming, the members of the Sub-Commission could not know what those recommendations were. She believed that there was a need for a study to analyse the gaps in the protection of human rights and the most appropriate way to supplement existing human rights monitoring procedures; such a study could be discussed under agenda items 1 or 13.

58. Finally she called for the question of the privatization of prisons to be included on the agenda as a matter of urgency, even though the Commission only intended the Sub-Commission to return to that subject in five years' time. If the Sub-Commission was to exert any influence, it must act quickly before a leading African State set a decisive and dangerous precedent by going ahead with plans to privatize its prisons.

59. Mr. JOINET agreed with the comments made earlier by Mr. Alfonso Martinez that the new agenda represented a "change of gear": for him, it was unfortunately a change down a gear, with more issues being discussed on a biennial basis as a result of financial pressures. He urged all States that were behind with their contributions to pay them in full so that the Sub-Commission could fulfil its mandate in the best possible circumstances. He also agreed that the original wording of the Universal Declaration of Human Rights should be used in agenda item 10, and that item 13 (a) should be divided into two sub-items.

60. He agreed with Mrs. Palley that it would not be realistic to restrict members to speak for 20 minutes on each agenda item. A formal exception should be made, for example, in the case of a member presenting a report and responding to criticisms or comments on it. He would favour a system whereby members would state, at the beginning of the debate on an agenda item, that they did not intend to speak on that item but reserved the right to use that time speaking on some other agenda item.

61. He agreed with Mrs. Daes that the fiftieth anniversary of the Universal Declaration of Human Rights would be an excellent opportunity to alert public opinion to human rights issues, and hoped that members of the Sub-Commission would be provided with basic documentation to allow them to play their part in plans for the anniversary.

62. Finally, recalling his previous experience with a less extensive review of the agenda, he said it would be wise to reserve judgement on the effectiveness of the new agenda, and not to take a definite decision on the future form of the agenda until the following session of the Sub-Commission.

The meeting rose at 1 p.m.

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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-ninth session

SUMMARY RECORD OF THE 2nd MEETING

Held at the Palais des Nations, Geneva,
on Monday, 4 August 1997, at 3 p.m.

Chairman: Mr. BENGOA

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ORGANIZATION OF WORK:

(b) ADOPTION OF THE AGENDA (continued)

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GE.97-13227 (E)

The meeting was called to order at 3.20 p.m.

ORGANIZATION OF WORK

(b) ADOPTION OF THE AGENDA (item 1 of the provisional agenda) (continued) (E/CN.4/Sub.2/1997/1 and Add.1)

1. Mr. CHERNICHENKO said that item 11 (c), "Other new developments", should be supplemented. Pursuant to Sub-Commission decision 1996/116, he had prepared a working paper on recognition of gross and massive violations of human rights perpetrated on the orders of Governments or sanctioned by them as an international crime. It should be considered under that sub-item, which could be subdivided into: (c) (i) Violations of human rights by Governments, and (c) (ii) Human rights and arbitrary deprivation of nationality.

2. Mr. BOSSUYT referred first to the question raised at the previous meeting by Mr. Alfonso Martínez in connection with item 16 (b) of the 1996 session, namely "Prevention of discrimination and the protection of children: human rights and youth". The Sub-Commission had decided to take up that question only every two years and it was necessary to keep to that decision, which should contribute to the rationalization of the Sub-Commission's work. As to the wording of provisional agenda item 10 (b), it would be best to use the terminology employed in article 13 of the Universal Declaration of Human Rights, which stated that everyone had "the right to leave any country, including his own, and to return to his country". The proposal for a different formulation of the wording of item 11 should also be adopted. Again, item 13 should be divided into three sub-items instead of two. Lastly, the question of the implications of humanitarian activities for the enjoyment of human rights - item 19 of the 1996 session - should be included among the issues in item 11 (b) of the present session.

3. Mrs. GWANMESIA announced that she had completed the study on the administration of juvenile justice that she had been assigned to conduct. She therefore proposed that the question of juvenile justice should be considered under a new item 9 (c).

4. The CHAIRMAN said that account would be taken of that proposal and some thought would have to be given to the way in which it could be combined with the other suggestions made.

5. Mrs. WARZAZI said she endorsed the proposal by Mr. Alfonso Martínez to consider the question of the protection of children and youth at the present session. As to the question of traditional practices affecting the health of women and children, which she was assigned to study, in the actual title of the question and the study she would like the word "child" to be replaced by "girl child" in order to avoid any ambiguity. Moreover, she supported the proposal by Mrs. Daes to include a sub-item on the fiftieth anniversary of the Universal Declaration of Human Rights. She also thought that the question of disarmament should be considered under item 11 (b) (Review of issues not previously the subject of studies but which the Sub-Commission had decided to examine). Furthermore, she supported the idea of including the question of

the implications of humanitarian activities for the enjoyment of human rights and also proposed that item 4 (a) should be changed to: "The international economic order and the promotion of human rights, including the right to education".

6. Mr. EIDE, reverting to the question of the protection of children, said that he was not in favour of including it in the agenda. What contribution could be made in that field by the Sub-Commission in view of the extremely valuable work done by the Committee on the Rights of the Child? In addition, rationalization of the agenda should certainly enable members to work on the basis of a more coherent and more logical agenda, but should also allow them to have more time to speak on each item. He therefore endorsed the request by Mrs. Palley for members to be able to exceed, where necessary, the 20 minutes' speaking time allowed under guideline No. 16 of the guidelines the Sub-Commission had adopted at its forty-fourth session in connection with its methods of work.

7. Mr. ALI KHAN said that, at the previous meeting, Mr. Alfonso Martínez had made judicious remarks about the intrinsic merits of the proposed provisional agenda. Since the agenda should reflect the Sub-Commission's real concerns, the wording of item 8, for example, "Protection of minorities" should be expanded. In view of the Sub-Commission's debates on that topic since 1988, the studies by Mrs. Palley and Mr. Eide, the relevant work of the General Assembly in 1992 and Sub-Commission resolution 1993/43, reference should also be made to the struggle against discrimination and the item should be entitled: "Prevention of discrimination against and the protection of minorities". Admittedly, the issue of discrimination was already mentioned in item 11 (a) (ii), but it was in the limited context of religion and belief.

8. Mr. WEISSBRODT said that the new provisional agenda proposed was necessarily imperfect, and hence the value of the suggestions made by various experts, notably by Mr. Alfonso Martínez. But, like Mr. Eide - who had contributed a great deal to the preparation of the provisional agenda - he thought that the idea was to lay emphasis on discussions between experts rather than on statements and that it was not necessarily wise to include new major issues in the agenda. The question of the rights of the child, for example, to which Mr. Bossuyt had referred, could definitely find a place in the context of item 11 (b). Nor did it seem essential to refer in the agenda to all the individual studies already mentioned in the annotated agenda; otherwise, there would be a list of elements as in the old agenda. Some questions were indeed important, but the time had come to consider whether they should really be placed on the agenda. In the light of the proposals and the discussions, he suggested that the Bureau should prepare a modified draft agenda which could be submitted to the Sub-Commission at its next meeting.

9. Mrs. FORERO UCROS said that she endorsed the idea of an item on the question of the protection of children and adolescents, which seemed vital. Moreover, like Mrs. Warzazi, she felt that the problem of disarmament had a place on the agenda in the context of item 11 (b) (ii), more particularly when it was viewed from the angle of the consequences of the sale and illicit trafficking in arms on the human rights situation. In the region she came from, Latin America, those consequences were particularly marked.

10. Mr. EL-HAJJÉ said that the agenda certainly was not perfect, as Mr. Weissbrodt had said, but that should encourage the Sub-Commission to go further. He was concerned about the translation of some items on the provisional agenda, particularly item 3 (b), where the term "Xenophobia" had been translated into Arabic by an expression that meant "Terrorism against foreigners". The various language versions should therefore be brought into line with one another.

11. Again, human rights were unquestionably indivisible, but the presentation of the items on the agenda should be rationalized. Was it logical, for instance, to include the question of the situation of migrant workers and the members of their families under item 3, which related specifically to the elimination of racial discrimination? Would it not be possible to make things more coherent in the case of the right to development, which appeared in both item 4 (b) and item 5 (b), since the various aspects were interrelated? The question of humanitarian law, mentioned by Mr. Bossuyt and then by Mrs. Warzazi, could well be tied in with the question of freedom of movement, the subject of item 10. Lastly, the problem of discrimination against minorities, which Mr. Ali Khan suggested should be expressly mentioned in item 8, overlapped with item 11 (a) (ii). Nevertheless, the wording of the proposed provisional agenda seemed acceptable.

12. Mr. ALFONSO MARTÍNEZ said that, like Mrs. Palley, he thought that grouping old and new topics in the agenda might well pose a problem of time. It should be remembered that there was no real rule on the number of minutes to be allotted for the consideration of the various questions and that, in 1992, a recommendation had simply been made in that regard. He was convinced that the Bureau would, in organizing the work of the session, take account of the fact that three or four topics were now combined under a single item.

13. Again, in regard to the comments by Mr. Bossuyt, he would point out that the Sub-Commission had not taken any decision on considering a particular item every two years and that paragraph 11 of the annotated agenda (E/CN.4/Sub.2/1997/1/Add.1) simply referred to the Chairman's suggestions in that connection. Any misunderstanding should therefore be cleared up and a possible decision on considering certain items every two years first required more thorough consideration, as Mr. Joinet had argued. He was not opposed in principle to the idea that the Bureau should make proposals in that regard, as Mr. Weissbrodt had suggested. Nevertheless, inasmuch as new proposals had been made, it would be advisable for further consultations to be held on two issues, namely the content of the agenda and the consideration of certain items every two years, which were crucial for the Sub-Commission's future work.

14. A decision would also have to be taken on whether the question of the protection of children and their rights should form a separate item. Since the agenda would consist of only 13 or 14 items instead of 20, the question could certainly be envisaged. Lastly, he suggested that the Bureau should make proposals at the following meeting with regard to the agenda and the programme of work, in view of the fact that, since some items were grouped together, the speaking time could not be confined to the usual 10 to 15 minutes.

15. The CHAIRMAN said that agreement seemed to be emerging on the provisional agenda, except for the idea of inserting between items 5 and 6 a new item on the protection of children (boys and girls) and juveniles, as well as their rights.

16. Mrs. PALLEY said she could not support the proposed provisional agenda until it was made clear which item would be used to decide on future studies. It was also suggested in the annotated provisional agenda that the question of the privatization of prisons should be considered every two years. In view of the highly alarming overcrowding in prisons and the prison privatization plans mentioned by the Minister in charge of prisons in a well-known country, the question definitely deserved to appear on the Sub-Commission's agenda.

17. The CHAIRMAN pointed out to Mrs. Palley that the question of the Sub-Commission's future work would be dealt with under item 13 and privatization of prisons need not form a separate item, since it already fell within item 9.

18. Mr. JOINET said that the question of the administration of juvenile justice, like that of privatization of prisons, already appeared in the agenda of the sessional Working Group. The Group was, moreover, open to all those who had suggestions to make on those issues, which had in actual fact been pending for a long time. The topic had been the subject of, more particularly, an international seminar organized on the recommendation of the Sub-Commission's Special Rapporteur on human rights and youth, Mr. Mazilu, and was one of the core activities undertaken by other bodies, including UNICEF.

19. Noting that, of the five questions proposed for consideration on a two-yearly basis, three appeared on the agenda for the present session and two were postponed to the next session, he suggested that the Sub-Commission should proceed to adopt the provisional agenda and discuss the programme of work for the present session, deferring until next year a final decision on the questions that were to be taken up every two years.

20. Mr. ALFONSO MARTÍNEZ said he feared that there might be some confusion and explained that the topic he wanted to include on the agenda, namely the rights of the person in connection with children and juveniles, was quite separate from that of juvenile detainees, which was the subject of item 9 (b) and would actually be considered by the sessional Working Group. In addition, he supported the wording proposed by Mr. Ali Khan for the item concerning minorities.

21. Mrs. WARZAZI said the problem was straightforward: proposals to supplement an item on the provisional agenda by mentioning, for instance, the right to education, protection of minorities or disarmament, should be adopted automatically if they did not meet with any objections. On the other hand, the Sub-Commission should decide whether or not it was worth adding to the agenda new topics, such as the implications for human rights of humanitarian actions - which should not be confused with humanitarian law properly speaking - and promotion and protection of the rights of children and juveniles.

22. Mr. GUISSÉ said it was surprising that the proposals concerning the agenda published in the report on the 1996 session had not been reproduced in full, thus forcing the Sub-Commission to revert to a question already discussed at length last year. That was true, for example, of the administration of juvenile justice, a question which had been proposed for the agenda and which was to form the subject of a report. Such vacillations ran counter to the aim of rationalizing the Sub-Commission's work. However, he would propose the addition under item 9 (b) of a sub-item on the judicial protection of children, a topic which differed from that of child detainees and which had aroused great interest in 1996 in connection with the cases of paedophilia.

23. Mr. JOINET said that the 1996 report had contained proposals intended to guide the Chairman in preparing the agenda and it was normal to devote some time to devising an agenda that would orient the Sub-Commission's work for a number of years. Nevertheless, to facilitate a consensus, he was in favour of including a broader item on the promotion and protection of the rights of minors, provided the work was done, in accordance with established practice, in the context of an update of the report prepared by the Special Rapporteur on human rights and youth.

24. Mr. MEHEDI said he did not agree with the idea of including the right to education in the agenda. Since the adoption of the Universal Declaration of Human Rights, in 1948, it seemed that everything had been said on the matter, which the UNESCO Executive Board also dealt with in an excellent fashion. He therefore proposed that the Sub-Commission should consider the subject of human rights education, which was more topical, particularly in the context of the United Nations Decade for Human Rights Education. Similarly, the question of cultural rights was still a largely unexplored field, particularly in the context of indivisibility and universality of human rights.

26. Mr. JOINET said that consideration of the draft resolutions under item 2 required more time than did the others and he asked the Bureau to bear that in mind when it decided on the time limit for depositing such drafts. Moreover, the rules on speaking time caused difficulties inasmuch as not all speakers would probably have time to put their names down to speak under item 2, which was to be taken up at the next meeting.

27. Mr. WEISSBRODT said he endorsed that comment and advised NGOs wishing to speak under item 2 to put their names down without further delay.

28. The CHAIRMAN said the Bureau would endeavour to guarantee everyone's right to speak.

29. Mrs. IZE-CHARRIN (Secretariat) provided information on the documents for the session.

30. The CHAIRMAN said that the Bureau would be meeting to draw up a plan of work and consolidate the proposals made during the meeting to improve the agenda.

The meeting rose at 4.50 p.m.

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SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-ninth session

SUMMARY RECORD OF THE 3rd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 5 August 1997, at 10 a.m.

Chairman: Mr. BENGOA

later: Mr. PARK (Vice-Chairman)

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GE.97-13242 (E)

The meeting was called to order at 10.20 a.m.

ADOPTION OF THE AGENDA (item 1 (b) of the provisional agenda) (continued) (E/CN.4/Sub.2/1997/1 and Add.1)

1. The CHAIRMAN drew attention to the revised draft provisional agenda now before the Sub-Commission. Sub-items had been added to items 4, 7 and 11; the wording of other items had been changed; and an item 10 bis had been created, in order to prevent confusion regarding documents already issued under items 11 and 12. Most of the previous day's suggestions had been incorporated.

2. Mrs. PALLEY suggested editorial revisions to items 5 (b), 8 and 11 (b) (i).

3. Mr. ALFONSO MARTÍNEZ approved of the revised draft agenda except in two respects. Firstly, the wording of item 10 (b) - "Prevention of population displacements" - was too restrictive. He would prefer to revert to the more comprehensive "Population displacements", which would include prevention. Secondly, in item 11 (a) (i) the "restoration" of human rights introduced a new element; in the past the Sub-Commission had deliberately avoided referring to anything other than the promotion and protection of human rights.

4. Mr. JOINET supported Mr. Alfonso Martínez's position on item 10 (b); an alternative wording could be "Human rights and population displacements". As for "restoration" in item 11 (a) (i), that implied that human rights had existed previously, which was not always the case. He would be inclined to delete "restoration". The suggested item 4 (d) was superfluous at a time of economic stringency and given that the United Nations Educational, Scientific and Cultural Organization (UNESCO) dealt with the issue on a daily basis. The introduction of item 11 (b) (iv) - "Gross and massive violations of human rights as an international crime" - raised a number of questions. Should the report submitted by Mr. Chernichenko (E/CN.4/Sub.2/1997/29), issued under item 11 (c) of the provisional agenda, not in fact be better considered under item 9? Indeed, there was a case for introducing an item 9 (c) with a title such as "Topical studies", under which Mr. Chernichenko's document and other forthcoming studies could be considered. In that connection, he wondered whether the provisional agenda, as revised, was to become a permanent structural agenda, as in the past, or whether the suggested changes were to apply only to the current session.

5. Mrs. DAES supported the suggestion that item 10 (b) should become "Human rights and population displacements" and that item 11 (b) (iv) should become item 9 (c). She welcomed the introduction of item 11 (c) - "The fiftieth anniversary of the adoption of the Universal Declaration of Human Rights" - but considered its importance to be such that it should become item 11 (a). As for the word "restoration" in item 11 (a) (i), it had appeared for over 10 years in the Sub-Commission's agenda and should be retained. Lastly, she believed that insufficient time had been allotted to the long list of sub-items under item 11. They should be allocated three meetings, not two.

6. Mrs. GWANMESIA said that there was some overlapping that could be eliminated with rewording. The two parts of item 9 (b), for example, were tautologous: the judicial protection of children could not be considered separately from the whole question of the arrest, custody, bail and trial of children. Item 11 (b) (iv) was superfluous, since the question of "gross and massive violations of human rights" was provided for under Economic and Social Council resolution 1503 (XLVIII) in item 12.

7. Mr. CHERNICHENKO fully supported the view of Mr. Joinet and Mrs. Daes that item 11 (b) (iv) should become item 9 (c). He believed that the draft declaration on the recognition of gross and massive violations of human rights perpetrated on the orders of Governments or sanctioned by them as an international crime prepared by him (E/CN.4/Sub.2/1997/29) would most suitably be considered by the Working Group on the Administration of Justice and the Question of Compensation.

8. Mr. EIDE said that he agreed with most of the suggested changes to the revised draft provisional agenda, though he pointed out that sub-items need be in place only for the current session. He was glad that item 8 had been made more restrictive by the addition of the word "against". Item 4 (d), however, should be retained: UNESCO's work concerned education, not the right to education, which was at particular risk from the introduction of structural adjustment programmes in many countries. He was also in favour of keeping the word "restoration" in item 11 (a) (i): it could be crucial in countries emerging from a long period in a state of emergency, for example.

9. Mr. FAN Guoxiang, said that he had strong reservations regarding the word "restoration" in item 11 (a) (i); promotion, respect and protection were the terms normally used in human rights documents, while "resoration" was a new term and should be deleted. On item 11 (b) (i), he noted that in the past the reference had been to "humanitarian interventions" rather than "humanitarian activities". He wondered what the difference was and also whether it was helpful to make a distinction between human rights and the concept of "humanitarian" activities.

10. Mr. ALFONSO MARTÍNEZ, referring to the comments made by Mrs. Daes and Mr. Eide on item 11 (a) (i) of the revised provisional agenda, said that it might well be true that the term "restoration" had been used in the past, however, terms inevitably acquired new dimensions with changing circumstances. When the Sub-Commission had spoken in the past of "restoration", the international community had not yet envisaged the possibility of using armed force to restore human rights and the democratic process, as had happened recently, in Somalia and Haiti for example. He had in any case not proposed deleting the term, but supported Mr. Joinet's suggestion that it might be better to delete it so as to avoid the problems to which its inclusion might lead. If all other members wished to retain the term, however, he would not insist on its deletion. He also thought that if the Sub-Commission was to adopt its draft agenda year by year, the main agenda items, which were very broad in scope, should be retained, with only the sub-items changed in response to the differing needs of each session.

11. Mrs. WARZAZI said that the concerns of Mr. Alfonso Martínez and Mr. Fan Guoxiang could perhaps be addressed by incorporating the words "and peaceful means of restoration of human rights" into agenda item 11 (a) (i).

12. Mr. ALFONSO MARTÍNEZ said that a further acceptable solution would be to entitle the sub-item "Promotion, protection and full realization of human rights at national, regional and international levels".

13. Mr. JOINET said that he had not sought the deletion of the term "restoration" - which, incidentally, had particularly reactionary connotations in French history. He had merely wished to point out that its inclusion could lead to problems. In the interests of consensus, he was willing to go along with the views of Mrs. Daes and Mr. Eide.

14. Mr. EL-HAJJÉ said that bilateral discussions in plenary disrupted the work of the Sub-Commission and never led to any tangible results. It was a waste of time for members endlessly to reiterate their positions.

15. On the question of education, he said that the latest annual report of UNESCO submitted to the Economic and Social Council showed that the number of children educated was increasing, as was the share of each country's budget devoted to education. The view that realization of the right to education should be retained on the agenda could not be justified, since a major agency already dealt with the issue.

16. Mr. FAN Guoxiang said that he would not insist on the deletion of the word "restoration". He also asked for clarification of the meaning of the expression "implications of humanitarian activities" in item 11 (b) (i) of the revised provisional agenda.

17. Mr. BOSSUYT (Rapporteur) said that, as already explained, the previous year's agenda had contained an item, agenda item 19, entitled "Implications of humanitarian activities for the enjoyment of human rights". That item no longer appeared in the draft agenda, although no decision had been taken to delete it. It should therefore be restored to the agenda. If any member believed it to be superfluous, he or she would be able to submit a draft resolution to that effect in the course of the current session. His own view was that humanitarian activities had important implications for the enjoyment of human rights, that the item should therefore be retained on the agenda, and that the most appropriate context in which to consider it was under agenda item 11 (b).

18. Mr. GUISSÉ said that at the previous session, although some members had felt that it was necessary to define further the content of the concept of humanitarian assistance, the item had nevertheless been retained on the agenda. He therefore supported Mr. Bossuyt's suggestion that it should be studied in greater detail.

19. As for the topic of education, although UNESCO dealt with education, and had explained its content and defined it, in his view it was for the Sub-Commission to discuss, in collaboration with UNESCO, the legal framework in which the right to education should be exercised. There was thus no reason

why the right to education should not be retained on the agenda. As for the concept of "restoration", consensus might perhaps be achieved if the term was replaced by the term "re-establishment", the one most commonly used in the United Nations system.

20. Mrs. FORERO UCROS said she agreed with Mr. Guissé that "re-establishment" was a more appropriate term to denote the revitalization of human rights after a period during which they had been suspended. On item 11 (b) (i), she asked whether the reference therein was to the study prepared by Mrs. Palley on the subject.

21. Mr. BOSSUYT (Rapporteur) said that the object of the current exercise was to establish the Sub-Commission's agenda. The content of individual items should be discussed later in the session as each item came to be considered.

22. The CHAIRMAN said that the concept of "restoration" and the right to education seemed to be the only two problems that remained unresolved. If there was no formal objection, those two problems could perhaps be resolved in informal consultations, and the remainder of the revised provisional agenda could be adopted by consensus.

23. Mr. MEHEDI, referring to the right to education, proposed that, as a compromise, item 4 (d) of the provisional agenda should refer to "education in human rights", rather than to a "right to education" which was already well known and with which UNESCO was arguably better equipped than the Sub-Commission to deal.

24. Mr. ALI KHAN said that he favoured the retention of the term "restoration" in item 11 (a) (i), as it implied the giving back of a right initially possessed but subsequently lost.

25. He was not in favour of curtailing the current debate in the interests of achieving consensus. Such discussion constituted an important exercise, for members might have serious reservations on certain points. He himself, for example, was perplexed by item 11 (b) (i), which he found, to say the least, delightfully vague. How was the Sub-Commission to discuss those implications, what were the parameters, and what, indeed, were the "activities" referred to? The sub-item should either be reworded or deleted altogether.

26. Mr. ALFONSO MARTÍNEZ said that if the term "full realization" was not acceptable, he was ready to accept the wording of item 11 (a) (i) of the provisional agenda as revised by the officers. Regarding item 4 (d), the right to education was a much broader concept than the one proposed by Mr. Mehedi. He for one was not prepared to dispense with any human right set forth in the International Bill of Human Rights as a possible theme for the Sub-Commission's work. The fact that a particular right was dealt with by UNESCO or other specialized bodies did not prevent the Sub-Commission from taking it up. Finally, with regard to item 10 (b), he had noted the support for his proposal to retain the original title, namely, "Population displacements", and it was his understanding that that proposal would form part of the consensus reached.

27. Mrs. GWANMESIA said that it would greatly benefit the Sub-Commission's work if item 9, which dealt with two categories of detainees, namely, adult detainees and detained juveniles, were divided into four sub-items. Sub-item (a) would deal with the question of human rights and states of emergency; sub-item (b) would deal with detained juveniles; further to Mr. Joinet's proposal, sub-item (c) would deal with gross and massive violations of human rights as an international crime (the present item 11 (b) (iv)); and sub-item (d) would deal with juvenile justice.

28. The CHAIRMAN noted that there appeared to be general support for Mrs. Gwanmesia's proposal.

29. Mr. MAXIM said that it had been clearly understood at the meeting of the officers that the right to education would encompass education in the field of human rights; that subject was clearly worthy of discussion. He fully endorsed the Rapporteur's comments on the most appropriate time to discuss the content of agenda items.

30. Mr. WEISSBRODT said that he had consulted with two of the members most concerned about the question of the right to education, who had agreed to accept the wording "the right to education including the right to human rights education" as a compromise solution. He trusted that the debate could now be closed, even if the provisional agenda to be adopted remained imperfect.

31. The CHAIRMAN said that the formulation proposed for agenda item 4 (d) was a good one. The officers would take note of the consensus reached on individual items.

32. The provisional agenda, as revised by the officers and as further amended, was adopted.

METHODS OF WORK OF THE SUB-COMMISSION (agenda item 1 (c))
(E/CN.4/Sub.2/1997/2, 3 and 33; E/CN.4/Sub.2/1997/OD.2)

Organization of work

33. The CHAIRMAN drew members' attention to the draft timetable for consideration of agenda items, proposed by the officers and contained in document E/CN.4/Sub.2/1997/OD.2. There was one amendment to that timetable: at Mrs. Daes' suggestion, the afternoon of 21 August would be devoted to consideration of agenda items 9, 10 and 10 bis, and the morning of 22 August to consideration of items 10, 10 bis and 11.

34. He drew attention to the speaking time per item allowed to various participants: members and special rapporteurs would have up to 20 minutes, government observers 20 minutes (with an extra 5 minutes before a vote concerning their country, 5 minutes for a first right of reply and 3 minutes for a second), representatives of non-governmental organizations (NGOs) 10 minutes (or 16 minutes in the case of joint statements), and international organizations, specialized agencies and national liberation movements 10 minutes.

35. The draft timetable in document E/CN.4/Sub.2/1997/OD.2, as orally amended, was adopted.

Statement by the Chairman of the Commission on Human Rights

36. Mr. SOMOL (Chairman of the Commission on Human Rights) said that the Commission had invited him, in paragraph 9 of resolution 1997/22, to inform the Sub-Commission of the debate at the Commission's fifty-third session on the Sub-Commission's work, which had led to the adoption by consensus of four resolutions and two decisions.

37. The Commission had noted that recent changes in the Sub-Commission stemmed not only from internal developments but also from changes in other relevant human rights bodies and had stressed the need for further, more far-reaching reform in the Sub-Commission's working methods. While a good deal of constructive criticism had been voiced, some members had questioned the Sub-Commission's usefulness and the need for its continued existence, particularly in view of perceived duplication with the work of other United Nations human rights bodies. Much more had been said in his consultations with delegations than in official statements. In that connection, he noted that the Commission was itself discussing reform of its working methods in time for the next session.

38. In response to the statement by the previous Chairman of the Sub-Commission that the experts had little time to discuss substantive issues, some delegations had expressed the belief that such a situation led to politicization of the Sub-Commission's work, while others had attributed politicization to the discussion of too many country-oriented issues and proposed a substantial reduction in their number. Some had gone so far as to suggest that the Sub-Commission should not deal with country situations at all except under the 1503 procedure. The time saved could be used to discuss more pressing thematic issues. It was felt in that connection that the Sub-Commission's sessions should be shortened rather than extended.

39. Many delegations had welcomed the steps taken by the Sub-Commission to rationalize its work and reform its agenda, for example by taking no action on human rights situations that were already being considered by the Commission and by proposing no major new studies or reports. The Commission expected a great deal from the debate at the current session of the Sub-Commission on the working paper concerning methods of work (E/CN.4/Sub.2/1997/3) and would follow closely any further moves towards reform, which it viewed as a priority for the Sub-Commission.

40. There was no desire in the Commission to change the mandate of the Sub-Commission. The reform process should enable it to resume its role as an indispensable "think-tank" for the Commission, particularly by providing recommendations based on the views of independent experts and by carrying out expert studies. Commission resolution 1997/22 also requested the Sub-Commission to focus strictly on questions relating to human rights in accordance with its mandate. The Sub-Commission should give particular attention to the process of selection of studies, seeking to serve the needs

of the international community in the field of human rights. He agreed with the former Chairman of the Sub-Commission on the usefulness of closer contact with other human rights bodies in the United Nations system.

41. The Sub-Commission's key asset lay in its diversity of views and its capacity to bring true expertise and multicultural wisdom to bear on existing human rights problems, avoiding politicized statements on country situations and preserving its independence and impartiality. The value of expert studies depended on absence of doubt regarding the impartiality of the expert concerned.

42. The Commission had urged the Sub-Commission to facilitate participation by NGOs in its work. NGOs played a valuable role as suppliers of information and both the Commission and the Sub-Commission should discuss with them new possibilities for cooperation that would make the flow of information more effective and less time-consuming.

43. He trusted that the Sub-Commission's report to the Commission at its fifty-fourth session would follow the main trends of the previous report and reflect action on the Commission's recommendations.

44. Mr. MAXIM said that he had attended the fifty-third session of the Commission, which had been difficult and complex, and could therefore wholeheartedly commend the Chairman's efforts to ensure its success.

45. The Sub-Commission appreciated the advice offered and the pertinent views expressed during the debate on its work. It was fully aware of the need to improve its activities and programmes and also of its role as a body of independent experts working to promote the cause of human rights. The working group on methods of work would look closely at the Commission's recommendations and the Commission could rely on the Sub-Commission's cooperation in fulfilling its mandate which had been reaffirmed by the Member States.

46. Mr. JOINET said that when he heard the word politicization he imagined himself transported back to the cold war era. For decades the Sub-Commission had ignored appalling human rights situations in eastern European countries and the Commission's sole comment in 1974 on the Sub-Commission's work had been to take note of its report. The Commission had only begun to show an interest when the Sub-Commission had moved from thematic to geographical issues. He had the impression that certain States wished to revert to the previous situation because of their fear of politicization. He conceded that moderation was necessary and that polemics were unproductive but if the Sub-Commission was being asked to return to the 1970s, it might as well be disbanded.

47. Commission resolution 1997/22 requested the Sub-Commission to improve further its independence and impartiality and at the same time called on States to nominate independent experts as members and alternates. He wondered what the Commission meant by the term independent expert.

48. Mrs. PALLEY said that she had been one of the most ardent advocates of reform some years previously but the Commission's attitude reminded her of the super-Power which had accused the last Secretary-General of not doing enough to reform the United Nations, whereas he had done an enormous amount. The Sub-Commission had also worked hard on reform but could not be expected to drop all its other work and make radical changes overnight.

49. She was gratified to note that the Commission did not intend to change the Sub-Commission's mandate. However, she wondered what was meant in paragraph 3 (b) of resolution 1997/22 concerning country situations by limitation "to exceptional cases in which new and particularly grave circumstances arise".

50. She also asked for clarification of the request to the Sub-Commission in paragraph 3 (h) to focus strictly on questions relating to human rights in accordance with its mandate. What was meant by a narrow or strict definition of human rights?

51. Mrs. WARZAZI said she was also somewhat puzzled by the criticism of the delegations to the Commission. The Sub-Commission had decided to reduce the number of its resolutions to avoid duplication with the Commission and was doing its utmost to cooperate. But a delegation's view of impartiality was often determined by its position on certain issues and it was impossible to satisfy everyone.

52. There seemed to be a contradiction between paragraph 8 of Commission resolution 1997/22, which referred to requests by the Sub-Commission to the Secretary-General to solicit information from NGOs, and paragraph 3, which urged the Sub-Commission to facilitate the participation of NGOs in its work. She saw no need for the Secretary-General to act as intermediary.

53. She felt that the Commission had every reason to show indulgence towards the Sub-Commission in view of the fact that Commission resolution 1997/126 deferred consideration of its own reform process until the next session.

54. Mr. EIDE noted that both the Commission and the Sub-Commission were faced with the intractable problem of meeting growing demands with diminishing resources.

55. On the question of politicization, it was part of the Sub-Commission's mandate to draw attention to situations of gross violation of human rights. It was difficult but not impossible to do so without adopting a political stance. The effectiveness of such action depended on the approach adopted on how it was perceived by the countries concerned. Countries whose initial reaction had been angry were often pleased with the long-term impact. Guatemala was a case in point. In that connection, he urged NGOs to temper their criticism with reasonable and realistic suggestions as to how situations might be remedied.

56. Mrs. DAES said that, in her view, the Commission was duplicating the work of the Sub-Commission in certain areas, taking up items and repeating resolutions that had originated with the Sub-Commission.

57. She agreed with the comments of Mr. Joinet and Mr. Eide on politicization.

58. The Sub-Commission had encouraged cooperation with other human rights bodies, particularly the Committee on the Elimination of Racial Discrimination. She observed, however, that the Chairman was never invited to attend meetings at the Centre for Human Rights of persons chairing the human rights treaty bodies.

59. She suggested that the reform process should be discussed jointly by representatives of the Commission and the officers of the Sub-Commission.

60. Mr. SOMOL (Chairman of the Commission on Human Rights) said that many concerns, particularly regarding the efficiency of working methods, were shared by the Commission and the Sub-Commission. Politicization was a topic discussed both at the Commission's public meetings and in the informal group of friends of the Chair. It was virtually impossible to remove the political dimension from discussions of country situations, but participants should at least try to practise self-control and to make reasonable suggestions. The Commission was not trying to lord it over the Sub-Commission, but sometimes outside intervention provided welcome impetus to the process of rationalization. He also welcomed the advice given by other United Nations bodies such as the General Assembly and the Economic and Social Council on the reform and rationalization of the Commission's work.

61. At a later stage he would reply in detail to the specific questions asked by the experts.

62. Mr. Park took the Chair.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 2) (E/CN.4/Sub.2/1997/4 and 5)

63. Mr. FAN Guoxiang said that the rights and duties of human beings were discussed in terms of their social attributes. Human rights, as basic components of the superstructure of a society, could only be protected by a controlling authority that upheld the rule of law. History had shown that the personal wisdom, humanism or humanitarianism of individual rulers and officials were unable to assure and protect human rights as effectively as the rule of law. The rights of members of a community could only be secured through the law. The affirmation and protection of the freedom, property and safety of individuals had emerged as major elements of natural laws, but, at the same time, the rights and interests of individuals had to be balanced against their duties and the interests of the nation as a whole. Various legal systems to maintain that balance had evolved in different parts of the world.

64. In China, Deng Hsiaoping's basic theory attached great importance to the rule of law which in turn guaranteed the protection of democracy. Democracy had to be institutionalized in a legal system which would remain valid,

irrespective of any change of leadership and nationwide education was needed to enable the laws to be well understood by the whole people and implemented strictly and fairly.

65. As a human rights expert, he was of the view that a legal system must be comprehensive and reflect the will of the people and the requirements of social progress. The people would be the master of the nation, legally entrusted with electing trustworthy leaders and with the creation of a just and stable society in which their fundamental rights and freedoms were guaranteed and their duties clearly defined. Legislative bodies would oversee law enforcement and courts would be independent and objective in protecting the rights of all citizens. State power, without which no human rights could be protected, must be monitored and regulated by law in order to prevent abuses.

66. A State was entitled to enforce its controlling authority in its territory, but no big Power had the authority to impose its internal law on the rest of the world on the pretext of protecting universal human rights. No resolution adopted in the legislative body of a single State had any competence whatever beyond that State's boundary; neither could it be accepted as a supra-national legal instrument. However, when a sovereign State became party to international conventions or treaties, it was duty bound to fulfil its obligations under those instruments. He urged all member States to commit themselves to the principle of the rule of law in the promotion of human rights.

67. Mr. CHOEPHEL (Society for Threatened Peoples), recalling Sub-Commission resolution 1991/10, called attention to the deteriorating situation of human rights and fundamental freedoms in Tibet. In the years since that resolution had been passed, there had been ample evidence to show that the Chinese authorities had committed an institutionalized policy of systematic and gross violations of the human rights of the Tibetan people. Photographs of the Dalai Lama, their spiritual leader, were banned and China's disregard of the traditional religious authority of Tibetan Buddhism had resulted in the incommunicado detention of the eight-year-old Gedhun Choekyi Nyima, the eleventh Panchen Lama. It was estimated by human rights organizations that the Chinese authorities today held over 1,000 political prisoners, including 50 juveniles. Last year three political prisoners had died in custody after routine acts of torture or physical abuse. No investigation had been carried out into the circumstance of their deaths. Official Chinese figures showed that 98 Tibetans had been imprisoned in 1996 for exercising their political rights; three more had been sent to unidentified prisons in 1997 for their support of the Panchen Lama. United Nations special rapporteurs had expressed concern about the human rights situation in Tibet in their reports to the fifty-third session of the Commission on Human Rights and the Working Group on Enforced or Involuntary Disappearances, had called attention to the recent increase in the number of disappearances involving Tibetans.

68. As well as their civil and political rights, the economic, social and cultural rights of the Tibetan people were also being violated, as shown by the attempts by the Chinese authorities in recent years to create more

obstacles to the use of the Tibetan language in educational establishments. The official Chinese newspaper, Xizang Ribao, had recently reported that 526 monasteries had been destroyed in one area of Tibet alone in 1996. In the name of "modernization" more than half of the historic buildings in central Lhasa, including the seventeenth century Tromsikhang Palace, would be demolished in 1997.

69. The Tibetan national identity was being threatened by coerced birth control practices, including the forcible sterilization of Tibetan women, and the arrival of Chinese settlers; Tibetans were rapidly becoming a minority in their own homeland. Particularly in major towns, the social life of the Tibetans had been assaulted. More and more young Tibetans were unemployed, while Chinese settlers enjoyed existing economic opportunities.

70. His organization appealed to the Sub-Commission to consider paying more attention to the grave situation of human rights in Tibet. It called upon the Chinese authorities to take concrete measures to end all violations of human rights and to heed the long-standing call by the Dalai Lama to resolve the issue through negotiations.

71. Mr. LITTMAN (Association for World Education - AWE) said that to remain silent in a view of the act of genocide carried out a week earlier in Jerusalem by paradise-seeking killers and of the foiled massacre in New York would make everyone the accomplices of terrorism. He welcomed the moving words of sympathy and strong condemnation of the act by the Officer-in-Charge, High Commissioner for Human Rights/Centre for Human Rights. A statement on the Covenant of Hamas, which AWE had submitted to the Commission on Human Rights at its fifty-third session, had highlighted the genocidal goals of Hamas. AWE maintained that the 1948 Convention on the Prevention and Punishment of the Crime of Genocide and the International Covenant on the Elimination of All Forms of Racial Discrimination were applicable. It also welcomed Sub-Commission resolution 1995/4, which had also supported action to prevent and suppress acts of genocide, including incitement to commit them.

72. The acronym Hamas meaning literally "zeal" "fanaticism" was an accurate description of its mode of operation and its Covenant should therefore be taken very seriously. Hamas was committed to jihad against the Jews until victory for Allah was secured. Rejecting international negotiations and peaceful settlements, article 13 of the Hamas programme stated that there was no solution to the Palestinian question save through jihad. Article 22 further stated that Jews had taken over the world media and financial centres and had inspired the establishment of the United Nations and the Security Council in order to rule the world by their intermediary. It was the same grotesque conspiracy myth that had led to the killing of 6 million Jews in Europe. The words of murderous hate in the Hamas manifesto were usurping authentic Islam, whose religious and secular leaders had condemned the crimes against religion being perpetrated by Islamist fanatics.

73. He called on the Sub-Commission to invoke the Convention on the Prevention and Punishment of the Crime of Genocide in response to the Hamas Charter and in that connection to adopt a modified version of its resolution 1995/4. He further called on the High Commissioner, in conjunction with the Committee on the Elimination of Racial Discrimination, to use all relevant United Nations machinery to take the action envisaged in resolution 1995/4.

The meeting rose at 1.15 p.m.

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SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-ninth session

SUMMARY RECORD OF THE 4th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 6 August 1997, at 10 a.m.

Chairman: Mr. BENGOA

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GE.97-13263 (E)

The meeting was called to order at 10.15 a.m.

EXPRESSION OF SYMPATHY IN CONNECTION WITH THE RECENT AIRLINE DISASTER IN GUAM

1. Mr. PARK expressed his deep gratitude to those colleagues who had offered their condolences following the crash of a Korean Air airliner in Guam on the previous day.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 2) (continued)
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2. Mr. PEREZ (American Association of Jurists) said that as violence by paramilitary groups in Colombia continued to escalate, the country had three priorities: re-establishment of respect for human rights, public freedoms and democratic institutions; recovery by the State of its monopoly on armed force; and social reforms to ensure that the entire population's needs were met. Yet in the run-up to the regional elections, opposition activists were being murdered or threatened with death, totally falsifying the democratic process. Far from recovering its monopoly on armed force, the State had issued a decree legalizing the so-called "Convivir" rural vigilante groups (Asociaciones de Vigilancia y Seguridad Rural). Nor had the Government shown any intention of introducing the necessary social reforms. His organization thus called upon the Sub-Commission to adopt a resolution supporting the initiatives of the representative of the High Commissioner for Human Rights in Colombia, and particularly her proposal that the Convivir associations should be dissolved; and proposing that the Secretary-General should open negotiations with the Colombian Government with a view to dispatching an international mission to observe the elections to be held in October 1997.

3. Representatives of his organization had visited Peru in May 1997 to try to elucidate the circumstances surrounding the death of Carlos Ernesto Giusti Acuña, a member of the Peruvian Supreme Court of Justice, during the assault on the Japanese Embassy in Lima; and also to investigate attacks on the independence of the Constitutional Court by the Government and armed forces. The report of that mission was to be found in document E/CN.4/Sub.2/1997/NGO/11, which contained full details of the attacks on the powers of the Constitutional Court. Mr. Giusti Acuña, the only hostage to die in the assault on the embassy, had long been involved in the defence of human rights. The circumstances of his death had not been resolved, but it was alleged that he had died of wounds after being denied emergency medical care. Significantly, the only hostage to have been seriously wounded was, like Mr. Giusti Acuña, also a member of the Supreme Court of Justice. As for the 14 terrorists killed, most had been buried secretly amidst allegations that they had been summarily executed after surrendering. His organization urged the Sub-Commission to adopt a resolution expressing grave concern at those events and calling for the establishment of

an international commission to investigate the attack on the Japanese Embassy. The Sub-Commission might also consider sending two of its members on a fact-finding mission to Peru.

4. Mr. PAPPALARDO (France Libertés) said that the recent murders of Mario Calderón and his wife and father-in-law, members of the Centre for Investigation and Popular Education (CINEP), were the latest in a long list of murders of human rights defenders in Colombia. Year after year his organization called on the Sub-Commission and the Commission to stem the flow of blood, yet no serious measures were ever taken. At a meeting in Paris in December 1996, French non-governmental organizations (NGOs) had expressed their concern to the Colombian Minister for Foreign Affairs at threats to human rights defenders by the armed forces. The Minister had undertaken to convey those concerns to the President, but that initiative, too, had come to nothing. Instead, in a press interview given in February 1997 General Manuel José Bonnet had accused CINEP and other human rights organizations of damaging the country's interests; and on 19 May 1997 the Calderón family had been murdered.

5. On 16 June 1997 more than 30 NGOs had submitted a memorandum to the Colombian Government demanding, first, the repeal of the decree legalizing the Convivir associations, in compliance with recent recommendations of the Human Rights Committee; secondly, an end to links between the armed forces and paramilitary groups; and thirdly, the establishment of the government body to combat paramilitary activities that had been promised in two decrees promulgated in 1989. France Libertés urged the Sub-Commission to call upon the Colombian Government to show its will to guarantee the lives and safety of human rights defenders by bringing the murderers of Mr. Calderón and his family to justice.

6. In June 1997 the Turkish authorities had closed the Izmir, Diyarbakir and Malatya branches of the Association for Human Rights (IHD). The arbitrary arrest of 49 of its members - 31 of whom were still in prison - and the confiscation of their equipment left no doubt as to the Government's intentions. Such repression of peaceful defenders of human rights was not to be tolerated.

7. Mr. ROSSI (International Association for Religious Freedom) said that on 20 July 1997 the President of the Italian Republic, Mr. Oscar Luigi Scalfaro, had curtailed a visit to Saudi Arabia on discovering that he would be unable to fulfil his religious duties by attending mass in that country. Indeed, there were no churches in Saudi Arabia, it was forbidden to perform a non-Islamic religious rite, even in the privacy of the home, and all religions other than Islam were prohibited. The Italian President had been particularly annoyed because he had himself attended the inauguration of the Great Mosque in Rome, a project largely financed by Saudi Arabia. He had spoken out in favour of religious freedom in Saudi Arabia during his talks with King Fahd, and before leaving the country had told journalists that there was no freedom of worship in the country.

8. It was true that there was no freedom of worship or of religion in Saudi Arabia. But there was also no freedom of the press, no freedom of association, no freedom of organization, no political freedom. In short,

Saudi Arabia was not a free State under the rule of law, and not only its own citizens but also many foreigners suffered in consequence. Action must be taken to ensure that all those living in Saudi Arabia could enjoy their human rights and fundamental freedoms. No historical, cultural, religious or economic grounds or sovereign prerogative could be invoked to justify violations of human dignity. The Italian President had had the courage to speak out, privately and publicly, against the violation of religious freedom. United Nations human rights bodies, and in particular the Sub-Commission, must likewise speak out, publicly as well as in closed session, concerning the situation of human rights in Saudi Arabia, and must call publicly upon the Government to take all necessary steps to secure respect for human dignity.

9. The Sub-Commission should also address violations of individual rights by the Taliban movement in Afghanistan. Religious extremists, they, like the Saudi authorities, used religion for political ends, presenting a distorted image of Islam, a religion whose principles in fact respected human dignity to the highest degree. Women were prisoners in their own homes, which they could not leave unless covered from head to foot and accompanied by a male relation. No women other than doctors and nurses were permitted to work. Many had been beaten, humiliated or stoned to death. A police decree prohibited, inter alia, the manufacture of women's clothes, singing and dancing at marriage ceremonies, photographs, cassettes and music; and men were forbidden to shave and trim their beards.

10. Efforts must be redoubled to combat Islamic extremism, which continued to kill innocent victims in Afghanistan, Algeria, Israel and elsewhere. Religious extremism of all denominations, which sowed hatred, violence and death, must be combated. The Sub-Commission should pay closer attention to that phenomenon so as to assist humankind in ridding the world of a scourge that had already gained control in several countries and could threaten international peace and security.

11. Mr. BERNARD (International Federation of Human Rights - FIDH) said that an FIDH mission to Algeria in April 1997 had found evidence of a total breakdown in the judicial system, in which massive and systematic violations of human rights were perpetrated and were consistently concealed or played down by the Government. It was high time that the Sub-Commission lifted the veil of secrecy covering events in Algeria. It must react to that extremely serious state of affairs by recommending the appointment of a special rapporteur on the situation of human rights in Algeria.

12. FIDH had just completed a fact-finding mission to Mexico, during which the Mexican authorities had taken the step - unprecedented in its experience - of expelling two members of the mission. Their expulsion revealed a hardening of the Mexican authorities' attitude towards the activities of national and international NGOs. FIDH was extremely concerned at the rapid deterioration of the situation of human rights in Mexico. Economic crisis, corruption and social inequalities marginalized whole sections of the population, particularly indigenous people; and civil and political rights were flouted as the country became increasingly militarized. Impunity was the norm. FIDH called upon the Sub-Commission to express deep concern at those gross and systematic violations of human rights, and to recommend the appointment of a special rapporteur to investigate the situation in Mexico.

13. FIDH was also concerned at the persistence of gross violations of human rights in Turkey, and in particular of freedom of opinion and expression, as a result of anti-terrorist legislation. It had noted the commitments recently made by the new authorities, and reiterated its call for the immediate and full repeal of article 8 of the anti-terrorist law. It also urged the Sub-Commission to set up a mechanism to monitor the situation in Turkey.

14. The situation of human rights in Chad continued to be considered under the 1503 procedure. However, the expert appointed under that procedure was of the view that public consideration would be more appropriate, given that, far from taking steps to end systematic violations of human rights, the Government used them as an instrument of its repressive policy. Eight months previously, the Head of State had confirmed an order to execute thieves without trial, on the grounds that the judicial system was powerless and corrupt. Though that order had since been revoked, summary and arbitrary executions of men, women and children continued. The Sub-Commission should request the Commission to appoint a special rapporteur on the situation in Chad.

15. FIDH also deplored the alarming situation of human rights in Bahrain, where scores of people had been killed by the police in recent months. None of those extrajudicial executions had been investigated by the Government, and 1,500 persons involved in peaceful opposition activities had been arbitrarily detained since 1996. Freedom of expression did not exist in Bahrain. FIDH urged the Sub-Commission to condemn those gross, massive and systematic violations of human rights, and called upon the Government of Bahrain to invite the Commission's special rapporteurs and thematic working groups to visit Bahrain.

16. Ms. VIGNARD (International Association of Democratic Lawyers) said that, despite promises made by government officials, torture by police remained a common occurrence in Turkey, as had recently been confirmed by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. According to Amnesty International's annual report, at least 11 people had died in custody in Turkey during 1996. The previous year, the European Court of Human Rights had several times found Turkey responsible for serious violations of human rights. Writers, journalists and political activists were often prosecuted for challenging government policies on the Kurdish question, and 184 members of Turkey's literary and cultural élite had been prosecuted for publishing a book on freedom of thought. Addressing a delegation of the Committee to Protect Journalists led by the former hostage Terry Anderson, President Demirel had expressed regret that Turkey was the country with the largest number of journalists in prisons and in the same breath had claimed that anyone who supported terrorism deserved to be locked up. It was to be noted, however, that in Turkey the definition of terrorism encompassed any speech or writing that might undermine the unity of the State.

17. On 14 May 1997 as many as 50,000 Turkish troops had invaded northern Iraq, indiscriminately bombarding villages under the pretext of hunting out Kurdish guerrillas. Neither the International Committee of the Red Cross (ICRC) nor journalists were allowed into the region, and United Nations monitors were prevented from fulfilling their mandate under Security Council resolution 986 (1995). All those examples showed that the Turkish authorities' claim to be moving towards greater democracy and fuller enjoyment

of human rights was fraudulent. The idea that quiet diplomacy could be effective was manifestly unfounded. Mechanisms existed to call Turkey to account, and they should be used.

18. Mr. KHALIFA said that the Sub-Commission was duty bound, at the turn of the century, to analyse the situation of human rights and to ascertain the "fin de siècle" mood towards human rights.

19. It was hard to avoid the conclusion that, after what might be termed the "golden age of human rights" brought about by the mutual scrutiny of the two giants which guaranteed the transparency of situations and the seriousness of allegations during the cold war era, the global human rights situation was deteriorating. The occasional tears shed for the victims of atrocities, starvation and homelessness were often crocodile tears, the human rights agenda was defined by the powerful, real politik prevailed over idealism, those who oversaw the world were largely monopolizing the human rights movement and the human rights arena had become a huge industry where a good deal of commercialism obtained and soldiers of fortune had found a lucrative business. However, it must be stressed that much good work had been done by some organizations that had established a good reputation and sufficient credibility.

20. The prestige of the United Nations could be used to serve the interests of the super Powers, as was seen in the discrepancy between General Assembly resolutions which reflected real international opinion and those of the Security Council which reflected the wish of the mighty Powers. To give one example, the Security Council was unable to condemn even the bulldozing of a site of spiritual significance to three major religions and the building of a one faith neighbourhood in occupied territory in violation of international law.

21. In a world that was under the yoke of inteventionism, any intervention was based on old-fashioned national interest: millions of refugees and great suffering did not happen accidentally but occurred when hatred and ethnic conflict were left to proliferate or develop. Human misery was irrelevant unless it became a threat to major economic interests. In Africa, dictators like Mbuto in Zaire had been the invention of Western interests, who had supported him for 32 years against his own people until he had outlived his usefulness and the way was cleared for the transnationals. Then it suited the same interests to cry democracy. While words like liberation, democracy and freedom were uttered, deals were being struck to syphon off the fabulous resources of Zaire. Intrigue was the name of the game in Zaire, Sierra Leone, Liberia, Angola, etc. A colossal tragedy was being enacted in a ruthless game of power and greed.

22. Countries with serious endemic health problems and pitiful literacy rates were given the new wonder drug of multi-party free elections. In other words, the Powers were creating a semblance of democracy; but democracy was not just free elections.

23. Selling arms at exorbitant prices to all warring factions was a thriving industry. Coupled with mercenaries there was a very good reason for igniting conflicts. Once a conflict had fulfilled its end, and lucrative arms sales

and mining contracts had been signed, talk turned to "peaceful and orderly transition" and the casualties and refugees were forgotten. The suffering of millions did not usually attract the attention of human rights activists to the same extent as the imprisonment of a single dissident when that individual's case could be exploited for political gain.

24. The true meaning of the "New International Order" proclaimed after the Gulf War was now clear: the world was to be run along the lines of a major corporation, with the super Power as the holding company and the rest of the world as small companies, formerly known as countries.

25. The world was in the grip of a powerful triangle of interests which had impeded legality, law and justice and opened the door to what he could only call international thuggery. That triangle was formed by international finance and transnational companies, in which presidents, politicians and diplomats were actors dancing to the music of international finance, the media, monopolized by the few to shape the minds of the many, and intelligence, the civilized name for spying, armed with the high-tech capability to subvert and create instability.

26. As if that were not enough, a fatal blow had been dealt to the very foundations of human rights by the bid to religionize those rights. Whereas religion should be conducive to greater tolerance and compassion, and thus bolster human rights, there was a disturbing trend towards atavistic practices ridiculing other people's religions; if that trend continued, religious militias would go out to "kill the infidels". The new battle cry of "Stop the persecution of Christians" was also a manifestation of hypocrisy and an attempt to use religion for political and economic purposes.

27. A question that continually arose was whether there was any affinity between the pitiful state of world affairs and the proliferation of terrorism. Was it true that violence, whether economic, political or violence in the enforcement of security, bred violence? A few months earlier, when it had seemed that peace was about to be achieved in the Middle East, a new philosophy had emerged that favoured terrorism and heavy-handedness. Whether one liked it or not, terrorism could not be written off and nobody was safe from it. He wondered whether it was feasible to expect anyone to put a stop to terrorism altogether. Could prime ministers be held responsible for terrorism in their territory, and did they have the power to prevent it? Terrorism might well continue to claim victims, but the super Power, and the Sub-Commission too in its own way, could do much to make the voice of reason prevail over fanaticism.

28. Ms. WEBBER (Food First Information and Action Network) expressed concern about the fate of 140 families of the Suminao clan of the Higaonon tribe in the Philippines, who were being harassed by the powerful Baula family over their claim to ancestral land. The harassment and intimidation had begun after the families filed an ancestral domain claim to the Department of Environment and Natural Resources, when armed guards, who were fencing off the disputed area, opened fire on protesting members of the clan, wounding one person. Later, the house of one of the claimants was burnt down. On 20 July 1997, the Suminao families had been attacked and evicted by armed

guards, hired by the Baula family, in cooperation with soldiers and the police. Three people had been killed in the attack and several seriously injured. Eleven settlements of the Suminao families had been demolished, and the rest were due to be demolished shortly.

29. The Suminao families had followed all due legal procedures and their claim was in accordance with the provisions of international law. They disputed the rejection of their claim, which had been turned down without a proper survey being carried out. As the Government of the Philippines was party to the International Covenant on Economic, Social and Cultural Rights, it was obliged under article 11 of the Covenant to take appropriate steps to realize the right to adequate food and housing. Moreover, various resolutions of the Sub-Commission and the Commission on Human Rights, such as resolution 1993/77 of the Commission, had urged Governments to undertake measures to eliminate the practice of forced eviction.

30. She therefore appealed, through the Chairman, to the Government of the Philippines to punish those responsible for the killings, suspend the demolitions, protect and relocate the 140 families, and order a complete survey of the disputed land before a final decision was taken. She further requested the Sub-Commission to urge the Government of the Philippines to take immediate action to reduce significantly the widespread practice of forced evictions.

31. Mrs. DAES expressed grave concern at the continuing deterioration in the human rights situation in the world and at levels of violence and terrorism.

32. The people of Albania, and in particular the Greek minority, had been subjected to violence, oppression and human rights violations and a number of people had lost their lives during the current year. She hoped that the newly elected Government would soon be able to restore public order, the rule of law and the human rights of all Albanian people.

33. The killing of hundreds of innocent people, including women and children in Algeria was also very disturbing. The bloodshed continued in certain areas of Zaire, Burundi and Rwanda and in other countries in Africa despite the efforts of the United Nations peacekeeping forces. In Latin America, the kidnapping and trading of hundreds of children continued as did the inhuman treatment of street children.

34. In Cyprus, enclaved Greek Cypriots had continued to endure hardships ranging from threats to the expropriation of their property: Greek Cypriot children had even been prevented by the illegal Turkish Cypriot regime from joining their enclaved families for the summer holidays in the Turkish occupied areas of the island. She hoped the forthcoming talks in Montreux between the President of the Republic of Cyprus and the leader of the Turkish Cypriot community would be successful and would contribute to the creation of a prosperous and peaceful future for all Cypriots.

35. Various international organizations and treaty-monitoring bodies had observed grave violations of human rights and humanitarian law in Turkey, particularly the destruction of villages in the south-east of the country by

the security forces, the systematic torture and ill-treatment of prisoners and arbitrary detention. She was extremely concerned about the fate of a number of journalists imprisoned for exercising their right to freedom of expression. She appealed, through the Chairman, to the observer delegation of Turkey to consider a review of the case of Mrs. Leyla Zana, a Kurdish woman who had been arrested and imprisoned in 1994 despite her legislative immunity and in violation of the Turkish Constitution, and sentenced to 15 years in prison for calling for autonomy for Kurdish areas. Mrs. Zana's non-violent approach had earned her the Zakharov Prize for Freedom of Thought awarded to her by the European Parliament in 1995.

36. She sincerely hoped that the Government of Turkey would take steps to establish a genuinely democratic order in Turkey, ratify and implement the relevant human rights instruments, and to respect the rule of law and human rights of everyone in Turkey, including its minorities.

37. Mr. ALI (Afro-Asian Peoples' Solidarity Organization) said that the peoples of South Asia were watching with alarm the unfolding drama in Afghanistan. Where the Taliban were in command, women were forced to ensure that their footsteps made no noise, men were not allowed to trim their beards, and television, music and sport were banned. What led the Taliban to believe that they could dominate a people whom no other force in history could subjugate? The Supreme Commander of the Taliban claimed that Pakistanis were flocking across the border from their religious schools to offer their support and The Sunday Telegraph of 1 June 1997 contained a report on Pakistani military aid to the Taliban.

38. If the Taliban ideology was allowed to spread, he feared for the other countries in the region. Similar groups in India were being trained by Pakistan and aspired to spread their version of religion not only within Jammu and Kashmir but also to other parts of the country. Smaller countries with Muslim communities such as Bangladesh, Nepal and Sri Lanka would find it even harder to withstand their onslaught. Groups trained in Pakistan were being sent as far afield as Bosnia and Herzegovina.

39. The Taliban ideology was in essence an extremist Islamic form of neo-colonialism nurtured by Pakistan in its attempts to become a power centre in the region.

40. Ms. AVELLO (Women's International Democratic Federation) said that in Colombia paramilitary groups supported by the armed forces regularly murdered human rights workers in covert operations. The great majority of such crimes went unpunished. Human rights organizations such as Andas del Valle, which worked on behalf of displaced persons, were harassed by the security forces. Paramilitary groups descended on defenceless villages with lists of names, torturing and beheading their victims. Decree-Law No. 356 had legalized many of the paramilitary groups through the Convivir rural vigilante groups. The Government purchased arms for the so-called groups with public funds. Her Federation supported a petition to dissolve the security groups and called on the Colombian Government to fulfil the pledges it had made in international forums.

41. In Algeria, the victims of the massacres of civilians included pregnant women. Most of the killings occurred in an area close to the capital which had the largest concentration of military forces in the entire country - and yet the local population remained defenceless.

42. According to reports by human rights organizations, women in Peru were being tortured and murdered even within the security forces, whose members acted with impunity. Journalists and human rights workers who dared to criticize the Government were harassed. The international community could no longer remain silent in the face of such abuses.

43. Mr. BUILO (International Association of Educators for World Peace) said that Cabinda was an enclave in Central Africa, wedged between the Democratic Republic of the Congo and the Republic of the Congo, which had been occupied and annexed by Angola in 1975 on the basis of the Alvor agreements concluded between Portugal and Angola without the consent of the people of Cabinda. The resistance movement of Cabinda had made numerous attempts to negotiate with the occupier but no solution to the conflict had yet been found.

44. Refugees from Cabinda in the Republic of the Congo were forced by officials of the Office of the United Nations High Commissioner for Refugees (UNHCR) and the International Committee of the Red Cross (ICRC) to accept Angolan nationality, a violation of their right to cultural recognition. Refugees in the Democratic Republic of the Congo were frequently pursued by Angolan troops with the aim of enforced repatriation.

45. Within Cabinda, the Angolan army often attacked the civilian population, burning villages and raping women, in retaliation for action by the resistance movement. People lived in fear of being shot or deported to prisons in Luanda if they expressed their views openly.

46. His Association called on the Sub-Commission to support the right of the people of Cabinda to self-determination.

47. Mr. GUISSÉ expressed support for Mr. Khalifa's statement.

48. At the end of the Second World War, the international community had promised peace to future generations. That promise had not been fulfilled. If the overall impact in terms of suffering, destruction and human rights violations of all the smaller conflicts that had occurred in the meantime could be calculated, the result would amount to several times the evil impact of the Second World War.

49. When the long period of bipolarity came to an end, the world's dream of peace revived only to be shattered again by the evidence of even greater egoism and intolerance. The arms industry continued to thrive, developing ever more sophisticated and deadly weapons. Inter-ethnic conflict had led to genocide. The rights of minorities and indigenous peoples were ignored. Poverty and famine were as rife as ever. Trafficking in women and children was widespread. Not a single individual right was respected, not even the

right to life. The right to life was the connecting link between all individual and collective rights, be they civil and political or economic, social and cultural. It was discouraging to see countries continuing to apply the death penalty in the same barbarous and often summary fashion. To speed up the process, entire groups were massacred, their only offence being the fact that they aspired to freedom, held different opinions or practised a different religion.

50. In some countries, the forces of law and justice were used for purposes contrary to freedom and led to a pernicious form of dictatorship. As a result, millions of people had lost confidence in the administration of public affairs and had taken part in uprisings to topple existing regimes at great cost in terms of human life.

51. Ethnic conflicts in East and Central Africa had led to one of the worst genocides in history. Millions of refugees had subsequently taken to the forests and died in their thousands while the world's leaders looked on unconcerned. He noted with great bitterness that only three days before the genocide the United Nations forces had withdrawn from the area, leaving the people to their fate.

52. At the same time, he paid tribute to the members of humanitarian organizations and peacekeeping forces and to individual journalists who had lost their lives in armed conflicts.

53. Africa was going through a period of massive and systematic violation of human rights, often with the complicity of the great Powers which needed markets for the products of their weapons industries. Their cynical aims were served by the fact that no African country in a conflict situation was an arms manufacturer.

54. He wished to comment on two notions that had been bandied about to such an extent that they were devoid of substance. The first was elections, supposedly the direct route to democracy. In Africa, many dictators who had come to power through a coup d'état were maintaining their position through rigged elections. People were no longer involved in public affairs and had lost faith in the concept of democracy. Legitimacy for them implied participation in political and economic life through the exercise of free choice and the prospect of benefiting from those choices through peace and development.

55. The second notion was the rule of law, which supposedly designated a State in which institutions and individuals enjoyed the protection of legislation that was in conformity with international standards. He could think of no country where the rule of law according to that definition existed. The situation was particularly bad in Africa where legal and judicial instability systematically obstructed progress towards the rule of law.

56. He urged the Sub-Commission to reflect on those two concepts with a view to redefining or expanding their content, and to call on the international community to show more restraint and more tolerance in their application.

57. Mr. ANAR (Habitat International Coalition) said he was speaking on behalf of the Human Rights Association (HRA) in Turkey, which was a member of the Habitat International Coalition.

58. During the past 70 years in Turkey, there had been numerous executions, hundreds had disappeared, censorship had been institutionalized and oppressive treatment of intellectuals and the Kurdish people had intensified. Torture was still a major problem. There were 107 intellectuals in jail for human rights activities and for expressing their views.

59. The human rights of ethnic minorities were systematically violated. None of the many ethnic groups in Turkey had the right to speak their language freely and educate their children in their mother tongue. Since 1984, 25,000 people had been killed in the war between the armed forces and the Kurdistan Worker's Party (PKK) in the south-east Kurdish region. According to a fact-finding report by the Habitat International Coalition, about 3,000 Kurdish villages had been destroyed by the armed forces and between 2.5 and 3 million Kurdish villagers displaced.

60. He urged the Sub-Commission to propose the following action to improve the situation: a halt to military operations in the Kurdish region and creation of conditions for political dialogue with international monitors; the safe return of displaced persons to their homes; the implementation of the Geneva Conventions and ratification of other human rights instruments, in particular the International Covenant on Economic, Social and Cultural Rights and the International Convention on the Elimination of All Forms of Racial Discrimination; the appointment of a special rapporteur on Turkey by the Commission on Human Rights; a halt to the ill-treatment of civilians, particularly their use as human shields; and a joint invitation by the Government of Turkey to the special rapporteurs on torture, the right to freedom of opinion and expression, and extrajudicial, summary or arbitrary executions.

61. Ms. PROUVEZ (International Commission of Jurists) said that the system of "faceless judges", a violation of the right to a fair trial, was still in existence in Peru. It was applied in civil courts in cases of alleged terrorism and in military courts in cases of high treason. The identity of the prosecutor and judge was not disclosed to the accused or his advocate, and the names, personal details and faces of witnesses were hidden. Such courts had been condemned by the Human Rights Committee in 1996 and by the Special Rapporteur on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers in 1997. The Government had postponed their abolition twice, most recently until October 1997.

62. The Peruvian Congress had dismissed three Constitutional Court judges in May 1997 because they had challenged the constitutionality of the "re-election law", which allowed President Fujimori to run for a third term. The President of the Constitutional Court had resigned. The sanctioning of those who, in the exercise of their constitutional power of control, expressed an opinion unwelcome to those in power constituted a blatant breach of the rule of law.

63. Large-scale violations of human rights continued to occur in Turkey, particularly in the south-eastern part of the country in the context of the

counter-insurgency campaign against the PKK. The record of human rights violations published by the Turkish Human Rights Association for the three-month period from March to May 1997 documented extrajudicial killings, disappearances, torture, evacuation of villages, closure and raiding of associations, trade unions and press agencies and confiscation of publications.

64. Arrests and trials of journalists, writers, lawyers and human rights defenders had continued. According to the Committee to Protect Journalists, Turkey was the country with the largest number of journalists in prison. Turkish lawyers were subject to harassment ranging from wire-tapping and open surveillance to verbal abuse, investigations, imprisonment, torture and in some instances murder.

65. Torture and other ill-treatment, even of children, was still common. Prison conditions were deplorable.

66. Hundreds of villages in the south-eastern provinces had been depopulated, destroyed and burnt and civilians had been forcibly displaced. ICRC was denied access to the area. The incursion by Turkish troops into northern Iraq earlier in the year had resulted in the death and displacement of many civilians and the destruction of villages.

67. Her organization urged the Sub-Commission to recommend to the Commission on Human Rights the establishment of a mechanism to ensure that the intolerable human rights situation in Turkey was remedied.

68. In Belarus amendments to the Constitution adopted in 1996 following a referendum marred by irregularities endowed the presidency with troubling new powers and threatened the independence of both the legislature and the judiciary. Human rights defenders, NGOs and the media were also under attack. Discussion in the State-owned media was banned and the Government was conducting a fierce campaign against Russian broadcasts, which criticized its policies. Exorbitant fines were levied against demonstrators after unfair trials and excessive force was used to break up peaceful demonstrations. NGOs were harassed and independent print media were marginalized by a misuse of the government monopoly.

METHODS OF WORK OF THE SUB-COMMISSION (agenda item 1 (c)) (continued) (E/CN.4/Sub.2/1997/2, 3 and 33)

Organization of work

Statement by the Chairman of the Commission on Human Rights

69. Mr. SOMOL (Chairman of the Commission on Human Rights) said that he wished to comment on questions asked the previous day concerning both relations between the Commission and the Sub-Commission and the improvement, rationalization or reform of the Sub-Commission. He would attempt to clarify or interpret the text of Commission resolution 1997/22, although as all were aware, in the legal sense, an authentic interpretation could be made only by the Commission itself.

70. Firstly, it should be reiterated that the mandate of the Sub-Commission continued to be valid; the Commission only wished to ensure its efficient and focused implementation, as indicated in the second preambular paragraph and in paragraphs 1 and 3 (a).

71. In reply to the comment by Mr. Joinet, he reaffirmed that the main task of all the independent experts was to work and act as individuals, on the basis of their own knowledge, opinions and experience, irrespective of the opinions or positions of other bodies - including their own Governments - engaged in discussing a given issue. That was a key element of the Sub-Commission's work, as of any other body of experts in the United Nations system.

72. With regard to the questions concerning duplication of work and on new aspects or circumstances raised by Mrs. Palley, he said that there was no question of eliminating the consideration of country issues in the Sub-Commission, but unnecessary parallel work by the Commission and its subsidiary body on the same issue should be avoided, in line with the Sub-Commission's own decision 1996/115. The Commission was, indeed, interested in hearing the expert opinion of members of the Sub-Commission in specific cases. In principle, the intention of the Commission was that the Sub-Commission should not take action on any country situation under consideration in the public procedures of the Commission; the Secretariat had provided a list of such countries in document E/CN.4/Sub.2/1997/33. It was not excluded that between the sessions of the Commission and the Sub-Commission, there might be a substantive development in the field of human rights in a country (not dealt with by the Commission), i.e. important new evidence concerning past violations or completely new violations. There might be a need for the international community to react and to express its opinion on those violations through the United Nations human rights mechanisms. In that case the Sub-Commission really could function as an "early warning" element of the Commission, thereby alerting it to situations. There were examples of possible actions by the Sub-Commission which were not dealt with in the Commission resolutions. In a case where the Commission sent a mission to investigate the situation in a country, for example, and the mission was unable to carry out its mandate or was not allowed to enter the country, the question of using other alternative tools in the United Nations system had to be considered. He thought that the Sub-Commission had a role to play in expressing its opinion and recommending solutions in those and similar cases. That was his understanding of paragraph 3 (b) of the resolution. Turning to paragraph 3 (h) and the issue of the mandate and its implementation, he said human rights aspects were discussed in too many fringe areas, such as disarmament, economic development or the environment, instead of sticking to the core human rights aspects of broad issues.

73. In reply to the points raised by Mrs. Warzazi, he said that the issue of NGOs was very important both for the Commission and the Sub-Commission. Active participation by NGOs in the deliberations was most welcome, but there was a need to find a balance between governmental and non-governmental elements, together with - in the case of the Sub-Commission - the experts' contribution. All parties should seek ways and means of making NGOs' contributions more efficient.

74. There was no contradiction between paragraph 8 and paragraph 3 (e). The point was simply that the Commission, as parent body, should give its approval before the Secretary-General was asked for any action or information by the Sub-Commission.

75. On the issue of the politicization of the work of the Commission and Sub-Commission, he had nothing further to add to his comments of the previous day. He fully shared Mr. Eide's opinion that everyone (experts, government representatives and NGOs) should strive to stick to the facts and avoid unfounded allegations on such sensitive issues as human rights.

76. He welcomed Mrs. Daes' point that the Chairman of the Sub-Commission should participate in the meeting of chairpersons of United Nations treaty bodies. Another useful form of cooperation might be for the highly qualified independent experts of the Sub-Commission to prepare studies on issues proposed or needed by the treaty bodies.

77. Commission resolution 1997/22 provided good guidelines for improving, rationalizing or reforming the Sub-Commission, as did several of the Sub-Commission's own decisions, including 1996/115. Members of the Sub-Commission should continue to discuss the form such improvements should take among themselves and with the Commission. He himself would be happy to take part in such discussions. He was confident that 1998, the fiftieth anniversary of the Universal Declaration of Human Rights, would be a good time to take further steps in that direction.

78. Mr. WEISSBRODT said that the Chairman of the Commission had made it clear that the Commission and the Sub-Commission had the same objectives and should work together but that at the same time each had its own unique contribution to make.

79. Mr. JOINET said, with regard to NGOs, that naturally every effort must be made to ensure that allegations regarding human rights violations were well founded, but to achieve certainty on such matters was difficult even for Special Rapporteurs; allegations could often be substantiated only by going into the field. He himself had been called a terrorist, a subversive and a liar by Governments, but when the dictatorships in question had fallen the facts had turned out to be worse than his allegations. He also thought that the ambiguity contained in paragraph 5 of the resolution should be cleared up: the current wording suggested that States had not already nominated independent experts. The implication that Governments could not be trusted was disquieting.

80. Mrs. DAES welcomed the comments by the Chairman of the Commission regarding cooperation between United Nations treaty bodies. She was sure that valuable results would be achieved and duplication avoided.

81. Mrs. PALLEY asked the Chairman of the Commission to confirm her understanding that although the Sub-Commission should not concentrate on disarmament, economic development and the environment, for example, there was no question of excluding an examination of those issues where such action would be relevant and useful. Similarly, while according to paragraph 8 of

the resolution the Secretary-General should not be requested to solicit information from Governments and others, there was no reason, she assumed, why he should not provide any information already in his possession.

82. Mrs. GWANMESIA said that the complexities of the issue of duplication of work should not be overlooked. There was a hierarchy: the Sub-Commission, as a subsidiary body of the Commission, was the court of first instance, as it were, while the Commission was the court of appeal. The Sub-Commission, which had spent many hours discussing its agenda, deciding what to retain and what to omit, naturally submitted reports to the Commission on topics that the Commission itself would consider; but that was by no means the same as duplication.

83. Mr. EIDE said that the main point he had been trying to make the previous day concerned the role of the Commission and the Sub-Commission in reacting to allegations by NGOs. Avoidance of politicization was important so that human rights were not used as a vehicle for external interests. Action should be directed at improving the situation of the people in the country concerned, not to help outsiders. NGOs would therefore make a very helpful contribution by providing positive suggestions on how to deal with a given problem, taking account of the context in which the violations of human rights occurred. That would help the Sub-Commission find the appropriate response in a given situation.

84. Mr. EL-HAJJÉ said that the issues of politicization and the role of NGOs had been under discussion for many years, but he believed that the Sub-Commission was well on the way to striking the right balance.

85. Mr. SOMOL (Chairman of the Commission on Human Rights) saw it as his duty to participate actively in such issues as the relations between the Commission and the Sub-Commission. He agreed with Mrs. Palley that the right balance must be struck with regard to both paragraphs 3 (b) and paragraph 8. He welcomed Mrs. Gwanmesia's views: it was indeed important to establish what really was a duplication and to find ways of distinguishing between that and the necessary work carried out by the Sub-Commission. With regard to Mr. Eide's point, he was in consultation with NGOs on the matter. It was important that the Commission and the Sub-Commission should not restrict themselves to criticism. Where human rights violations occurred, positive steps should be taken to improve the situation and eliminate such violations.

The meeting rose at 1.15 p.m.

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SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-ninth session

SUMMARY RECORD OF THE 5th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 7 August 1997, at 10 a.m.

Chairman: Mr. BENGOA

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (continued)

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GE.97-13291 (E)

The meeting was called to order at 10.15 a.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (continued) (agenda item 2) (E/CN.4/Sub.2/1997/4, 5 and 37; E/CN.4/1998/3-E/CN.4/Sub.2/1997/35; E/CN.4/1998/4-E/CN.4/Sub.2/1997/36)

1. Mr. HOSTENSCH (Pax Romana) said that the final comments of the Human Rights Committee on the report submitted by the Colombian Government in accordance with article 40 of the International Covenant on Civil and Political Rights were devastating, drawing attention to, inter alia, the failure of the Colombian Government to implement the recommendations of the Committee, extrajudicial killings, torture, "social cleansing" of children and young offenders, official support for paramilitary groups, irregular legal practices that supported impunity, the unjustified declaration of states of emergency, overcrowded prisons and violence against street children.

2. However, against that background of serious human rights violations, there were certain standard-setting activities that deserved support, including the setting-up of the Office of the High Commissioner and of a commission to investigate involuntary disappearances, and the adoption of various legal measures to protect human rights.

3. He drew attention to the recent outbreak of violence against the peasant population in El Chocó and elsewhere. He also noted that attacks on human rights defenders continued to escalate. He gave examples of some of the 2,500 trade unionists who had been killed by paramilitaries since 1987, making Colombia the most dangerous country in the world for trade-union members according to the International Labour Organization. The Office of the High Commissioner in Colombia had confirmed in its first report that there was a campaign to wipe out human rights defenders and certain politicians, and that paramilitary groups had vowed to use violence to disrupt the electoral process planned for October 1997. The Inter-American Commission on Human Rights had also confirmed that mass political killings were intended to physically destroy the Unión Patriótica. Nevertheless, faced with the universal acknowledgement that there was a pattern of serious human rights violations in Colombia, the Colombian Government had recently passed a law which allowed it to restrict freedom of expression by means of a licensing system, controlled by the Government, for television news broadcasts.

4. He concluded by drawing attention to the most recent atrocity committed by paramilitaries, the brutal murder of 35 people in Mapiripán, in the department of Meta, and urged the Sub-Commission to take all the evidence into account when it came to evaluate the omissions in the response of the Colombian Government to the recommendations of the Human Rights Committee.

5. Mr. SAFI (World Society of Victimology) said that the people of Jammu and Kashmir continued to be the victims of extrajudicial killings, arbitrary detention, torture, involuntary disappearances and collective punishments. The ratio of one soldier to every seven inhabitants of Indian-held Kashmir was

the highest investment in oppression in the history of colonization. In order to maintain its hold on the disputed territory, India had violated every article of the Universal Declaration of Human Rights and the two international human rights covenants to which it was a party. Contrary to what some people had been led to believe, the people of Kashmir had no free choice in determining their own future, as every election since the 1950s had been rigged by the Indian authorities. It was time that talk of the violation of human rights turned to action to prevent atrocities being committed.

6. The most serious issue was that of the extrajudicial killings by the occupying forces and their paid hit-squads in Indian-held Kashmir. A recent report of the United States State Department confirmed that torture and extrajudicial killing of those who spoke out against India's State terrorism was taking place, and the non-governmental organization (NGO) Asia Watch had stated in its most recent report that State-sponsored paramilitary groups and regular security forces had committed serious human rights violations, particularly against human rights monitors and journalists. The United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions had also expressed concern at reports of the deliberate killing of detainees and civilians by the Indian security forces in Kashmir.

7. The Sub-Commission could help to stop the massive human rights violations taking place in Jammu and Kashmir by sending a fact-finding mission to the area, and by calling on the Government of India to withdraw its troops from that disputed area, to allow the Special Rapporteur on extrajudicial, summary or arbitrary executions to visit the area, and to honour its pledge to hold a referendum to ascertain the wishes of the people of Jammu and Kashmir. It could also call on the Governments of India and Pakistan to enter into negotiations in good faith with the All Parties Hurriyat Conference, which represented 36 Kashmiri political parties and groups.

8. Mr. HADJAO (Movement against Racism and for Friendship among Peoples), commenting first on the human rights situation in the Mediterranean region, welcomed recent positive developments towards self-determination in Western Sahara; he said that Morocco should release Saharan prisoners, which would not only help to establish peace, but would also confirm the evolution of Morocco towards becoming a State governed by the rule of law. The often fierce persecution of Kurds continued in three main countries, with the oppressive policies of the Turkish Government, in particular, being regularly scrutinized and condemned. Cool-headed logic, with self-determination as the watchword, was needed to solve the problems in the region.

9. In Indonesia, it was not only in East Timor that human rights were flouted. Various NGOs had kept the Sub-Commission informed of equally serious human rights violations in Indonesia itself. He reminded members that at least a million people were estimated to have been killed during the change of regime in 1965-1966. He gave examples of the tens of thousands of people who had been killed since in various parts of the archipelago, including the many people massacred in July 1996 by forces from the headquarters of the Indonesian Democratic Party led by supporters of the daughter of former President Sukarno. The killings revealed a deliberate attempt to eliminate any who disagreed with those in power. In the light of that, it was not surprising that other human rights were also violated on a daily basis;

the Sub-Commission had been informed by non-governmental organizations of cases of torture and the absence of freedom of thought and freedom to organize. The former Special Rapporteur on torture, Mr. Kooijmans, had informed the Sub-Commission about the systematic use of torture in Indonesian prisons and police stations. He called on the Sub-Commission to look closely at the reports of massacres and human rights violations taking place in Indonesia, which, if confirmed, would amount to a crime against humanity.

10. Ms. KABIR (International Progress Organisation) said that the proliferation of extremist and bigoted militant organizations willing to subvert democratic and stable societies at the bidding of their masters was a new and dangerous phenomenon that threatened the human rights of innocent citizens. That new threat to peace and human rights had come to be symbolized by the Harkat al-Ansar, a group steeped in its own distorted version of Islam and sponsored by Pakistan to terrorize Kashmiri Muslims. Pakistan was trying to install the same kind of regime in Kashmir as it had established in the northern areas of Jammu and Kashmir it had annexed in 1947. Unlike the inhabitants of those areas, the inhabitants of Indian Kashmir were fully enfranchised members of a society characterized by religious tolerance. Faced with gun-wielding religious bigots who would like to drive all women indoors, deprive them of the right to work and destroy schools, the people of Jammu and Kashmir had voted their own Kashmiri party into power in 1996. Since then, not a single day had passed without the killing by the mercenaries of some political figure or member of such a person's family. The fundamentalist terrorists sent by Pakistan wished to deprive Kashmiris of freedoms they valued highly and to impose medieval values on a civilized society. If discussion on human rights was to have any meaning, the human rights community should call on Pakistan to call off its dogs of war.

11. Mr. RIDE, recalling that the Sub-Commission's efforts to identify consistent patterns of gross violations of human rights under the current agenda item were only part of the larger endeavour to move towards the goal set out in article 28 of the Universal Declaration of Human Rights of a social and international order in which the rights and freedoms set forth in the Declaration could be fully realized. Dialogue at all levels, including the contributions made by NGOs drawing the attention of the Sub-Commission to particular situations, was vital if the Sub-Commission was to have deeper discussions on the more basic issues and offer sound advice to the Commission on Human Rights and other bodies in the United Nations system.

12. Actual or apparent gross violations of human rights should not only be condemned but also seen as a problem to be solved, which might require a careful look at external factors and their impact on a particular situation. An accurate analysis of the nature of problems was vital if they were to be solved; such an analysis could be approached on various levels. The primary level was to identify the visible symptoms and to verify the facts. A comprehensive system of human rights standards already existed that addressed issues, for example, of vigilante killings, torture, terrorism, street children, child labour or extreme poverty. Thus, it was easy to point to the necessary response: better training of law enforcement officers, prosecution of those engaged in violations, measures to take care of street children, the prohibition of child labour and so on. The Sub-Commission should see itself as contributing to those endeavours. By pointing out the grave violations it

sensitized Governments to the problems; other parts of the United Nations could then provide them with advisory services and assistance to rectify the situation. However, when violations were gross and systematic, the causes were deeper. It was necessary to move to the secondary level, and to the social and cultural sources of potential or actual conflict, including religion and belief. Questions that subsequently arose included the unequal control over resources, as illustrated by the tremendous inequalities that had characterized many Latin American societies; the lack of attention, in the past, to the identity and culture of indigenous peoples and their right to maintain control over their ancestral land; the lack of recognition of the plurality of identities in most States; and the use or abuse of religions to control the lives of others.

13. It was also necessary to examine the role of politicians, and their handling of the process whereby latent conflict became manifest. As Mr. Guissé had rightly said, dictators had come to power in Africa through the use of arms and had later sought to legitimize themselves by means of fraudulent elections. Unfortunately, the existence of manipulative political leaders on countries was not confined to Africa, but could be found throughout the world, including Europe.

14. Autocratic and cleptocratic leaders such as former Presidents Marcos and Mobutu had used their positions to enrich themselves, their families and their ethnic or social group. In countries such as Colombia and Turkey, the military escaped effective democratic control, a situation which was often aggravated by emergency laws.

15. Mr. Fan had stressed the importance of the rule of law and of a legal system that reflected the will of the people and the requirements of social progress. Mr. Guissé had said that the domestic rule of law must be based on international principles, namely, universally recognized human rights. He wished to make the additional point that democracy must be inclusive, ensuring political participation by all permanent residents of the country concerned.

16. A continuous open and critical debate was necessary to ensure that leaders were qualified and did not succumb to corruption, mismanagement, favouritism or ethnic or religious fanaticism. But the open debate should not be allowed to degenerate into incitement to racial or ethnic hatred and should not be exploited by extremist groups for anti-humanitarian ends.

17. Unfortunately, there was frequently collusion between external interests and leaders who had a detrimental impact on the social and democratic development of their own society. Structural tensions were exacerbated by the existing international economic order and division of labour. A skewed process of globalization tended to increase inequality, particularly within countries, and to promote corruption for the benefit of particular economic interests. Some "conflict entrepreneurs" also used the idea of a clash of civilizations with its associated cultural and religious dimensions for their own ends. The great Powers and religious leaders could choose to build bridges, showing tolerance and engaging in constructive dialogue in the pursuit of an equitable social and international order, or they could opt for expansionism and confrontation, pursuing what they viewed as their own interests and maintaining inequality and conflict.

18. Selectivity in the area of human rights was a common failing in government policy and was felt most strongly when the State in question was a major Power. NGOs could play a constructive role in warning Governments against selectivity. As an instance of duality of approach, he contrasted the dismissive reaction of Henry Kissinger, former Secretary of State of the United States, to reports from his country's Ambassador to Chile of gross violations of human rights in that country in the 1970s and Mr. Kissinger's praise in his memoirs for the effective use of human rights issues against the former Soviet Union and Eastern Europe. However, parts of the United States public had subsequently reacted to their country's involvement with military regimes, calling for control of military aid and electing President Carter who had made human rights a core element of his foreign policy.

19. There was an ongoing conflict, however, in the United States and elsewhere, between the pursuit of self-centred national interests, using human rights as a tool, and development of a foreign policy that genuinely served the aims of human rights. When human rights were pursued unilaterally, they were often heavily influenced by national interests with the selective consequences noted by Mr. Khalifa.

20. The international community could not and should not abdicate its responsibility to assist in developing a rule of law based on international instruments. Contracting parties to international treaties, including first and foremost the Charter of the United Nations, were bound to fulfil their obligations, particularly with respect to human rights. If it functioned properly, the United Nations could develop a comprehensive and balanced approach to the global achievement of human rights, taking into account all the obstacles he had mentioned. When addressing situations of gross violations, it could help the society concerned to heal its wounds, to develop and sustain an impartial and pluralist regime and to prevent "conflict entrepreneurs", militant nationalists and religious fanatics from controlling the instruments of law and order.

21. In that context, he deeply deplored the financial starvation of the United Nations by Member States which refused to pay their dues. As a result, unilateral policies held sway and a few powerful States were able to impose their priorities. It was essential to preserve and develop the United Nations and ensure that unilateralism was subordinated to the common concerns of humankind.

22. Mr. FAN Guoxiang said that the universal acknowledgement by all countries and peoples of the importance of human rights should be emphasized despite the persistence of human rights violations throughout the world. It was important to draw attention to positive achievements instead of focusing on inadequacies. Progress stemmed from the application of universal human rights principles through the efforts of the people to the circumstances in countries with different cultural and social backgrounds. Local realities could not be ignored. When great Powers, invoking "international standards", attempted to transplant their human rights model to developing countries, ignoring their economic and social conditions, negative consequences were inevitable.

23. A country needed time to decide on whether to accede to a particular human rights treaty, taking into account the interests of its people and international experience. International human rights principles must be materialized through domestic jurisdiction.

24. What could be done to prevent the use of double standards in the appraisal of human rights situations and the degeneration of human rights into a political tool used by the strong to humiliate the weak? Some countries acted like knowledgeable professors lecturing to ignorant pupils. But they ignored the criteria they applied to others and persisted with their censures and sanctions regardless of their pupils' efforts. In his view, coercion served no purpose and merely led to confrontation. In a multipolar world, different approaches to the interpretation and application of human rights were normal. Dialogue was the most effective means of achieving international democracy and equality, and attempts to impose pressure were unproductive.

25. He advocated an open bilateral and multilateral dialogue between Governments, organizations and individuals with radically different and even opposed ideas as an alternative to discussions among the like-minded and behind-the-scene endeavours to put opponents in the dock. Instead of battling for and against the adoption of politically motivated resolutions directed against particular countries, it was important to reach a better understanding of each other through exchanges of views and experience. Valuable experience in the promotion of human rights had been acquired by many countries with diverse philosophies. Confrontation and accusations should be replaced by factual and conceptual briefings.

26. An attempt should be made to find common ground on such issues as the universality and specificity of human rights; the status and scope of human rights in the modern world compared with previous historical periods; the ties between economic, social and cultural rights and civil and political rights; the development of human rights concepts and practices in different countries and regions and the problems encountered; the impact of historical background and cultural heritage on human rights; the relationship between human rights and the maintenance of international peace and security on the one hand and cooperation for economic development on the other; the relationship between individual freedom and the well-being of the community and between rights and duties. The purpose of dialogue should not be to secure instant results through a voting procedure. It was a long and difficult process but would certainly produce worthwhile results.

27. A reasonable attitude should be adopted to differences of opinion. Their origin, scope and immediate and long-term causes should be explored in an atmosphere of mutual respect. Different assessments of human rights per se and their possible political implications should be examined carefully. Any progress, even partial or temporary, towards the resolution of existing differences was to be welcomed.

28. Ms. BARRIENTOS (International Federation of Action by Christians for the Abolition of Torture) expressed concern at increasing militarization in parts of Mexico inhabited by indigenous communities. In the State of Chiapas, the military presence had led to widespread prostitution, alcoholism, drug abuse, AIDS and water and soil pollution. Reports of human rights violations by the

military were on the increase, especially in the indigenous regions of Guerrero and Oaxaca. On the pretext of combating the guerrilla movement and fighting drugs, the army had subjected members of peasant organizations and opposition political parties to threats, arbitrary detention and torture.

29. Paramilitary groups were used in the "dirty war" strategy. Acting with the active or passive complicity of the authorities, they murdered, tortured and kidnapped their victims and expelled them from their homes.

30. The Public Prosecutor's Office and members of the judiciary were used as instruments in the campaign against those who opposed the regime. Indigenous peoples were denied the right to a fair trial through the lack of court interpreters, transport difficulties, corruption and racist attitudes.

31. The United Nations Committee against Torture had concluded that torture was systematically used in Mexico both by the judicial police and by the army (CAT/C/XVIII/CRP.1/Add.4). Human rights defenders were threatened, kidnapped and tortured. The perpetrators of human rights violations enjoyed impunity. It was regrettable that the Mexican Government had refused a joint visit by the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on torture of the Commission on Human Rights.

32. She requested the Sub-Commission to urge the Mexican Government to agree to a visit by the Special Rapporteur on extrajudicial, summary or arbitrary executions as soon as possible, and to recommend that a special rapporteur or independent expert on Mexico should be appointed by the Commission on Human Rights.

33. As Peru had failed to include a specific crime of torture in its legislation, as required by article 4 of the Convention against Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment, torturers were virtually immune from punishment. The National Human Rights Coordinator of Peru had reported that torture was even more widespread in the emergency areas. Eight of the victims in one incident were juveniles. The Legal Defence Institute reported that 77 per cent of 1,250 prisoners accused of subversive activities had been tortured during the investigation. In the case of women, torture included rape.

34. Her organization requested the Chairman to call on the Government of Peru to eradicate such practices and to give the International Committee of the Red Cross (ICRC) access to Peruvian prisons.

35. Ms. McCONNELL (North-South XXI) said she was deeply concerned about the continuing violations of international humanitarian law in the armed conflict in Sri Lanka and the genocidal proportions of the current offensive in the Tamil homeland in the north and east of the country. Eighty thousand Tamil civilians had been killed and 700,000 displaced. In April 1997 Amnesty International had reported 600 disappearances in army-controlled territory. The food and medicine embargo imposed on the displaced persons by the Sri Lankan Government was resulting in starvation and severe illness. The Ministry of Defence had refused to consider appeals for food supplies from the local authorities and ICRC had been denied permission to transport food,

medicine and essential goods to those areas. The Government's attitude had been condemned by many international organizations, including the Office of the United Nations High Commissioner for Refugees (UNHCR).

36. Aerial bombardment regularly killed and wounded members of the civilian population. Between August 1994 and March 1997, 1,330 Tamil civilians had been killed. Inquiries instituted by the Government were mere eyewash and impunity was the general rule. The media were denied free access to the north and tight press censorship was imposed.

37. In a joint statement to the Commission on Human Rights at its fifty-third session, 53 NGOs had urged the adoption of a resolution calling on the Government of Sri Lanka to cease all military operations against the Tamil civilian population, to withdraw its occupying forces from the Tamil homeland, to lift the economic blockade of the north and east and to admit humanitarian aid. They had also called on both parties to the conflict to negotiate a political solution to the conflict which recognized the right of the Tamil people to determine their political status and the need to ensure full human rights for everybody in Sri Lanka.

38. Mr. ZAFFAR (World Muslim Congress), said that the 700,000 Indian military and paramilitary forces occupying Jammu and Kashmir were responsible for gross and consistent violations of human rights. They had been given broad powers of arrest, detention and interrogation. A fact-finding team of Indian human rights activists, who were impartial observers, had found that the civilian Government installed following a farcical election continued to allow the army a free rein, as in the past, and State policy was determined by the two generals in command of the Jammu and Kashmir regions. There were many allegations of abduction, molestation and rape by the security forces. Some people killed in what the army termed "crossfire" had actually been killed in custody. The severe torture routinely inflicted by the armed forces invariably resulted in disablement or death. Terror had been created by the policy of arming and protecting private gangs. Particular fear had been aroused by the secret illegal army being operated by the Indian Government in Jammu and Kashmir, which had been responsible for summary executions, torture and illegal detention.

39. Mr. Ghulam Muhammad Bhat, who had documented human rights atrocities by the Indian forces, had been detained and his life was in danger. The Sub-Commission should urge the Indian Government to ensure his safety. The world had accepted the perpetuation of fascist colonial rule in Jammu and Kashmir, abdicating morality for reasons of expediency. It had remained silent over communal cleansing because India was a large market. Kashmiris welcomed the initiation of dialogue between India and Pakistan, but no agreement between the two countries could be lasting unless it reflected the freely expressed wishes of the people of Jammu and Kashmir. He urged the Sub-Commission to see through the "civilian" garb worn by the Chief Minister in order to camouflage the Indian military presence in his country. The Sub-Commission should send a fact-finding mission to the area.

40. Ms. DOLMA (Worldview International Foundation) said that the Chinese Government had recently tightened its repression of Tibet through the use of brutal tactics. Religious and local leaders had been tortured and killed.

More than 6,000 Buddhist monasteries had been destroyed and their contents smashed or stolen. Chinese policy was to annihilate Tibetan culture and religion, but in such a way as to make it seem a natural process. The systematic destruction of the environment was also intensifying. China had transformed a peaceful country into a vast military area, deeply affecting the geopolitical balance of the whole region. Recent estimates put the number of Chinese soldiers at between 300,000 and 500,000; 200,000 soldiers were permanently stationed in central Tibet. There were 17 secret radar stations, 14 military airports and 5 missile bases, containing at least 8 intercontinental ballistic missiles, 70 medium-range missile launch pads and 20 intermediate-range missile launch pads, with nuclear warheads threatening Myanmar, Cambodia, Viet Nam and the main residential centres of India. China also used Tibet for chemical weapons experiments and provided areas in which other countries, paying high rates, could dump dangerous substances and toxic and radioactive waste.

41. Women in Tibet suffered both racial and sexual discrimination. Following the influx of millions of Chinese immigrants, they had become second-class citizens, without access to education or employment. In 1992, on the pretext of improving the "genetic quality of the Tibetan population", the Chinese Government had decided to extend to Tibet the measures already in force in China limiting the number of births. That amounted to genocide, since the situation in Tibet was quite different from that in China. Infant mortality was high in Tibet and life expectancy low. There was a constant risk of women falling foul of rules of which they were ignorant. In any case, any pregnancy without official sanction was illegal and had to be terminated. A child illegally born had no access to any benefits, lacking the necessary papers. Abortion or sterilization were increasingly forced on Tibetan women.

42. Human rights violations in Tibet, with the specific purpose of preventing the Tibetan people from asserting and preserving their identity, resulted from the application of institutionalized racial and cultural discrimination. The situation in Tibet should be placed on the agenda of the Sub-Commission if any improvement was to be achieved.

43. Ms. PINTAT (Inter-Parliamentary Union) said that the Union, believing that as guardians of human rights parliamentarians themselves should enjoy freedom of expression, had a committee that examined complaints from parliamentarians of human rights violations. The committee was currently considering cases from Burundi, Cambodia, Colombia, Gambia, Guatemala, Honduras, Indonesia, Myanmar, Nigeria, Togo, Tunisia and Turkey. She wished to draw attention particularly to four cases.

44. The ultimate violation of a parliamentarian's rights was the dissolution or suspension of a parliament or the rejection of election results. The Union had therefore condemned the suspension of the National Assembly of Burundi in June 1996. Although re-established in September 1996, it had lost some of its powers. The Union was also investigating the murder of four parliamentarians and the wounding of three others before the coup d'état in July 1996. Although the authorities in Burundi had declared war against impunity, there seemed to be no serious investigation of the crimes.

45. In Indonesia, Sri Bintang Pamungkas had been sentenced in May 1996 to nearly three years' imprisonment on the pretext of having insulted the President of Indonesia in a speech in Germany in April 1995. He had been deselected by his party and had therefore founded his own, which had not been recognized by the Government, on the grounds that by law only three political parties were allowed. It was a matter of concern that anyone criticizing that law was liable to prosecution. In March 1997, Sri Bintang had been arrested under the law against subversion because of his party's policy to dismiss the result of the 1997 elections, to oppose Mr. Suharto's re-election to the Presidency and to make preparations for the future. The Union's human rights committee considered that the publication of his party's programme came under the category of freedom of expression and hoped that the authorities would release him and drop the charges against him.

46. In Togo three parliamentarians had been murdered in 1992 and 1994, allegedly by members of the armed forces. For several years the authorities had stated that the matter was under investigation, but in June 1996 it had informed the Union that - contrary to its previous statements - the murders were covered by a general amnesty adopted in December 1994. That amounted to an admission that the murders were of a political nature. The Union noted, however, that the Government had undertaken to consider compensation for the families of the victims. No action had yet been taken.

47. Lastly, in Honduras Miguel Angel Pavón Salazar had been killed in 1988. An official enquiry had linked his murder with a statement he had made in October 1987 on disappearances to the Inter-American Court of Human Rights, but there the matter had rested. In July 1996 the case had been reopened, which the Union welcomed, but progress depended on cooperation from the police and the military, who should be compelled to conform to the rule of law. Those responsible should stand trial.

48. Mr. VITTORI (Pax Christi International) drew attention to two recent incidents that aroused great concern: the suicide bombings in West Jerusalem on 30 July 1997, a horrible act of terrorism deliberately aimed at civilians, leaving 15 dead and many wounded, and the decree of 1 August 1997 under which the Government of Israel had sealed the border with Gaza and the West Bank. Its action had been unprecedentedly drastic. Access to medical care had been blocked for more than 500 rural communities. Programmes of vaccination and rehabilitation had been affected, medicines were unobtainable and patients whose lives depended on urgent or regular treatment were under sentence of death. Children, the seriously ill, pregnant women and old people were the victims of what looked more like reprisals and collective punishment than constraints related to the legitimate security of Israel. He was confident that the Sub-Commission would wish to consider both matters under the emergency procedure and would express its strong view that Israel should call a halt to its action. Pax Christi believed that the peace process, leading to the creation of a sovereign Palestinian State, should continue. The war against terrorism could be won only if Israel stopped building new settlements in Jerusalem and the occupied territories and refrained from humiliating provocations. It should act quickly when extremists displayed the Prophet of Islam with a pig's head or when an Israeli newspaper showed the Virgin Mary with a cow's head.

49. Pax Christi had called for the withdrawal of Indonesian troops from East Timor ever since the invasion in December 1975. It had consistently protested at massacres carried out by the occupying forces (100,000 deaths up to 1990) and subsequent outrages, which had been denounced by the Bishop of Dili, the Nobel Peace Prize winner for 1996. At the 1997 session of the Commission on Human Rights pressure had been put on the Chairman to withdraw an invitation to another Nobel Prize winner, Mr. José Ramos Horta, to address the Commission. That incident, which had shocked many delegations, had been decisive in ensuring a very large majority vote for resolution 1997/63. Since then, however, President Mandela had, on a visit to Indonesia, spoken with the leader of the Timorese Resistance, Mr. Xanana Gusmao, and had requested the Government to free all political prisoners. He had also offered his mediation for a negotiated solution. Pax Christi applauded his actions and called on the Sub-Commission to give him all its support.

50. Human rights violations in Western Papua were of particular concern, since they were so little reported. For over 30 years Papuans had been marginalized and oppressed. They had been subject to arbitrary arrest, torture, disappearances and destruction of property. No action had yet been taken to identify those responsible or to prosecute them. His organization welcomed the improved situation in Bougainville. The Government of New Zealand was to be congratulated on its efforts to find a solution to the problem. It was to be hoped that the new Government in Papua New Guinea would make every effort to find a lasting solution.

51. Pax Christi had always opposed embargoes when they affected principally the most vulnerable sections of the population. That applied to those in Iraq, to the Tamil areas of Sri Lanka and to the Chiapas in Mexico. Even more dramatic over recent months had been the chaotic situation in what was then Zaire, which had suffered a total blockade, amounting to genocide, before which the United Nations had been completely powerless.

52. Lastly, his organization deplored the actions of the military, the police and paramilitary groups in various countries. The repression of landless peasants in Brazil, the persecution of Kurds and human rights defenders in Turkey and Iran and the harassment of members of the democratic opposition in Indonesia, Nigeria, Cameroon, Tunisia and Peru were of particular concern. Pax Christi was particularly alarmed at the murder on 19 May 1997 of Elsa Alvarado and Mario Calderon, ecologists and pacifists working for a Christian development NGO. The police had claimed that it was a case of mistaken identity, but there was reason to believe that the murderers belonged to a special police unit.

53. Ms. TANGGAHMA (Survival International) drew attention to human rights violations in West Papua, or Irian Jaya, currently the twenty-sixth province of Indonesia. The military was dominant and severely repressed the West Papuans' struggle for their land rights. The Amungme, Dani, Kamoro and Ekari people had suffered arbitrary arrest and detention, torture, disappearances and the destruction of property. Discrimination was practised by multinationals operating in West Papua: for example, the Freeport MacMoran-RTZ mine employed only 1,500 West Papuans out of a total of 15,000 staff. Within Government institutions local people held subordinate positions and their plight was worsened by the arrival every year of thousands

of Indonesian immigrants to West Papua. Any resistance on the part of the West Papuans resulted in a violent military response. Sexual violence was rife near military bases. Girls as young as 11 had been raped. The local apparatus knew of such abuses, but took no action. Innocent civilians who lived in areas of guerilla struggle were harassed by the Indonesian army, which made no distinction between civilians and fighters. Her organization urged the Sub-Commission to examine the human rights abuses in West Papua and to adopt a resolution that might improve the situation there and in other parts of the world where the military abused the human rights of innocent civilians.

54. Mr. HALEPOTA (Liberation) said that, in spite of a greater awareness of human rights by Governments, individuals continued to suffer for their beliefs. The hanging of Ken Saro-Wiwa and eight other activists in Nigeria had not been forgotten. The fate of the 19 other activists remained uncertain. Saving life should be the top priority of the international community.

55. Liberation was also extremely concerned at the increasing violence in Palestine resulting in unnecessary loss of life. The whole region was on the verge of another catastrophe and he urged all parties to show restraint. Peace was the only option and must be given another chance.

56. Widespread violations of civil, political, economic, social and cultural rights in Pakistan were documented in the report of the Special Rapporteur on the question of torture (E/CN.4/1997/7/Add.2) and in recent reports by Amnesty International and Human Rights International. In Sindh province, one of the world's oldest civilizations was under threat of extinction by terrorism, deliberate cultural dilution, settlement of outsiders, persecution and gross violations of human rights by the police and military. The immigrant population had further damaged the indigenous Sindhi culture by bringing in heroin and illegal weapons. More than 270 people had been killed in Karachi following the unconditional release of many criminals by the minority Government, and fundamental freedoms had been further undermined by the imposition of emergency rule. Peace and stability in the region could not be ensured unless those violations were halted and the national rights of the Sindhi people, including the right to self-determination, were restored. Liberation called for a United Nations fact-finding mission to be dispatched to Sindh, and appealed to the international community to support the struggle against the occupation and colonization of Sindh and the massacre of its people.

57. Mr. NASIM (International Islamic Federation of Student Organizations) said that the people of Indian-held Jammu and Kashmir continued to be deprived of even the most basic human rights by the occupying Indian forces, who enjoyed unbridled power under the Armed Forces (Special Powers) Act. Arbitrary arrest and detention, torture, extrajudicial killings, rape, arson, disappearances and the destruction of cultural artefacts and all means of sustenance of the Kashmiri population were commonplace, and the mercenaries and gangs of paid criminals who terrorized the populace enjoyed the active support of the Indian army. In seven years, nearly 50,000 people had died as a result of the State terrorism unleashed by more than half a million law

enforcement officials of the Government of India. Yet not a single one of those officials had received punishment proportionate to the crimes committed. Impunity reigned supreme in Kashmir.

58. The much-vaunted National Human Rights Commission of India and the Human Rights Commission for Jammu and Kashmir were merely an attempt to deceive world opinion, for according to a detailed analysis done by the Institute of Kashmir Studies, Srinagar, the army and other security agencies, which were responsible for most of the abuses, had been excluded from the two Commissions' purview. In its 1997 report, Human Rights Asia pointed out that the National Human Rights Commission of India was seldom willing to insist on impartial investigation of allegations of abuse submitted by independent human rights groups. The Sub-Commission must respond to the Kashmiri people's cry for help. India must be told that it could not continue its reign of terror.

59. Mrs. ASSAAD (International PEN) said that her organization had for many years been deeply concerned about the large number of writers and journalists detained in Turkey in violation of their right to freedom of expression. There were currently 74 cases of detained writers and journalists on its records, with many more on trial who, if convicted, faced imprisonment. The Turkish Government thus failed to comply with its commitments under article 19 of the Universal Declaration of Human Rights and article 10 of the European Convention on Human Rights.

60. Accordingly, International PEN welcomed the statement made by the Prime Minister of Turkey on 14 July 1997 to an international delegation of journalists led by the Committee to Protect Journalists, in which he had promised that his Government would initiate reforms aimed at reducing the scope of legislation that could be applied against writers and journalists. Encouraged by that statement, International PEN strongly urged the Turkish Government to follow through that initiative as a matter of urgency, and further requested the abrogation of any Turkish law enabling writers and journalists to be detained solely for exercising their right to freedom of expression. It further urged that all cases of writers and journalists detained in Turkey should be reviewed and that those held in violation of their right to freedom of expression should be unconditionally released. Similarly, all pending prosecutions of writers and journalists charged in connection with their writings should be reviewed, with a view to halting proceedings against them.

61. Ms. GRAF (International League for the Rights and Liberation of Peoples - LIDLIP) said that since the proclamation of the "Constitutional Declaration" by parliamentarians of Kosovo seven years previously, whereby Kosovo was declared to be an independent entity on an equal footing with the other constituent units of the then Socialist Federal Republic of Yugoslavia, little seemed to have changed: human rights violations continued daily, the media were effectively gagged, and the Serbian regime continued to maintain a state of emergency. The figure of 2,122 cases of human rights violations recorded by the Council for the Defence of Human Rights and Freedoms for the first half of 1997 was certainly an underestimate, as victims often failed to report violations for fear of further reprisals. Faced with such persecution, the people of Kosovo were driven to seek asylum, and it was most regrettable that receiving Governments tried to compel them to return while the reasons

for their exile persisted. LIDLIP called on all interested parties to support the rights of the people of Kosovo, and on Governments to protect those seeking political asylum from the arbitrary occupying regime of Serbia.

62. The plight of the Tamils in the north and east of Sri Lanka was fast deteriorating owing to the ongoing war and the Government's ban on essential supplies. Many refugees were driven to return to areas occupied by the military; more than half a million were stranded in the Eastern Province, and a further half-million were braving the elements in malaria-infested jungles. The recent renaming of a Tamil town in honour of a Sinhala king clearly demonstrated that the war was one of domination over the Tamil people. The international community must call for the withdrawal of the Sri Lankan armed forces occupying Jaffna and a halt to their military onslaught on the Tamil people, thereby paving the way for negotiations between the two parties to the conflict. LIDLIP accordingly urged the Sub-Commission to take action in that regard.

63. LIDLIP also welcomed the Secretary-General's efforts to find a solution to the question of Western Sahara by appointing James A. Baker III as his Personal Envoy to visit the territory. It was to be hoped that direct talks between the parties would achieve progress and would enable the United Nations Mission for the Referendum in Western Sahara (MINURSO) to resume and complete the process of identifying voters, so that a people racked by 22 years of conflict could finally resume normal and peaceful life.

64. Ms. HAENNI (Association for the Prevention of Torture) said that her organization had long been concerned at the human rights situation in Turkey in general and at the use of torture in particular, as well as at violations of international humanitarian law in the south-east of the country. Despite visits by United Nations and Council of Europe human rights protection mechanisms, little had improved. In a public statement made on 6 December 1996, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment had denounced the systematic infliction of torture by Turkish police on detainees accused of terrorism and also on ordinary criminal suspects. Her organization thus invited the Sub-Commission to urge Turkey to comply with the international standards it had undertaken to uphold, including protection of persons deprived of their liberty. It acknowledged that some efforts had been made, such as shortening the period during which a person could legally be held incommunicado. Those efforts, however, were not enough. The Sub-Commission must encourage the Turkish authorities to punish the authors of human rights violations and to mete out sanctions corresponding to the seriousness of the crimes committed. It should also urge the Turkish authorities to invite the Special Rapporteur on extrajudicial, summary or arbitrary executions to visit Turkey, and to submit Turkey's overdue report to the Committee against Torture.

65. More should be done to protect and promote the work of human rights defenders, many of whom had been subjected to harassment or had their premises closed down. The Turkish Government should be encouraged to allow human rights defenders to do their work in a manner that befitted a democratic society.

66. Lastly, the Sub-Commission should encourage the Centre for Human Rights to offer technical cooperation to Turkey with a view to preventing ill-treatment, for example, through the training of police forces.

67. Ms. OLSTHOOM (Minority Rights Group) said that, although transition as such could be a positive phenomenon, minority groups were especially vulnerable during periods of change. One region highlighted in a recent Minority Rights Group report was Central Asia, where inter-ethnic relations that had been characterized by tolerance and stability during the Soviet epoch had come under pressure since the five former Soviet Republics had attained independence in 1991. The newly independent States' attempts at nation-building had threatened the rights and status of non-titular groups such as Slavs, ethnic communities from neighbouring States and persons deported from other Soviet Republics between 1936 and 1952. Her organization thus called upon those States to ensure that recognition of the identity of the different communities did not lead to discrimination against non-titular groups.

68. Eritrea and Guatemala were further examples of countries requiring special attention and support in a transitional period following the end of long conflicts. Eritrea had achieved independence after 30 years of war and exceptional suffering. The new Government had taken steps to establish an inclusive society that respected the different communities' human and minority rights. However, large numbers of refugees awaiting repatriation were still caught in limbo, and a lack of adequate funding, concerns about the effects of mass repatriation, mistrust, frustration and intransigence had all conspired to cause a breakdown in relations between the Eritrean Government and the international community. Cooperation and dialogue between the two must be resumed, and financial support should be sought.

69. After 36 years of internal conflict Guatemala was now seeking to transform itself into a peaceful and stable society. Although an Agreement signed in March 1995 appeared to mark a commitment to protection of the rights of the Mayan people, no indigenous representatives had been directly involved in the negotiations determining its final form, and the constitutional reforms and legislative amendments contained therein still awaited adoption. The road ahead was thus a long one, and international attention was essential to ensure that the various peace agreements lived up to their potential.

70. Mr. LEHMANN (Centre Europe - Tiers Monde) said that, despite the reiterated promises of the Turkish authorities, massive and systematic violations of human rights and implacable repression of the Kurdish people continued unabated. That was nothing new: ever since the establishment of the Republic of Turkey in 1923, the identity of the Kurdish people had been denied and its fundamental rights flouted. A decree of 3 March 1924 had prohibited the use of the Kurdish language in spoken or written form. Various revolts between 1925 and 1939 had been bloodily suppressed, Turkish Kurdistan had remained in a permanent state of emergency until 1950, and foreigners had been excluded from the region until 1965. The Kurdish provinces were now once again governed under emergency powers, 3,000 villages had been destroyed, at least 4 million Kurds had been deported, and tens of thousands had been killed or injured since 1984.

71. As always, any expression of the fundamental rights of the Kurdish people was forbidden. Mr. Ismail Besikçi, an eminent Turkish sociologist and expert on the Kurdish question, had recently been sentenced to more than 70 years in prison for publishing the results of his research into the

Kurds' identity, culture and situation in Turkey. The claim by the Turkish parliamentarian Coskun Kirca, reported in the Turkish press in March 1994, that the only right enjoyed by Kurds in Turkey was the right to silence, echoed the words of Mahmut Esat Bozkurt, a former Minister of Education, who in 1930 had declared that Turks were the sole masters in Turkey and that those who were not of pure Turkish origin enjoyed only the right to be slaves (Milliyet, 26 September 1930). The statements clearly revealed the nature of the "progress" made by the Turkish authorities since the foundation of their Republic. It seemed that the Kurds, like the Armenians and Assyrians before them, must be exterminated in order for the United Nations finally to take a serious interest in the situation of human rights in Turkey.

72. Having regard to paragraph 5 (b) of Commission on Human Rights resolution 1997/22, to the fact that the situation of human rights in Turkey was "particularly grave" and was not currently "under consideration in the public procedures of the Commission", and to the urgent need for the international community to request the Turkish authorities to invite the Special Rapporteur on extrajudicial, summary or arbitrary executions, the representative of the Secretary-General on internally displaced persons, the Working Group on enforced or involuntary disappearances and the Special Rapporteur on the independence of judges and lawyers to visit Turkey, his organization believed that it was imperative to adopt a resolution on the situation of human rights in Turkey and, in particular, on the fate of the Kurdish people.

The meeting rose at 1 p.m.

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SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-ninth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 6th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 7 August 1997, at 3 p.m.

Chairman: Mr. BENGOA

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (continued)

* The summary record of the second part (closed) of the meeting appears as document E/CN.4/Sub.2/1997/SR.6/Add.1.

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GE.97-13315 (E)

The meeting was called to order at 3.15 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 2) (continued) (E/CN.4/Sub.2/1997/4 and 5; E/CN.4/1998/3-E/CN.4/1997/35; E/CN.4/1998/4-E/CN.4/Sub.2/1997/36)

1. Ms. MORROW PATTY (World Federation of Democratic Youth) said that the Kurdish people in Turkey had for many years been subject to systematic violations of their fundamental rights, particularly the right to preserve their culture and use their own language and the right to self-determination, all of which were enshrined in the Charter of the United Nations and the two International Covenants on Human Rights. Civilians were the main victims of the military operations carried out in the south-east of the country by the Turkish army against insurgents of the Kurdish Workers' Party (PKK). Since 1984, over 3,000 Kurdish villages had been destroyed and thousands of hectares of farmlands and forests had been burned down, causing an exodus of about 3 million Kurds. Over 3,000 Kurdish politicians, intellectuals and journalists had been murdered or had mysteriously disappeared. Almost all of the parliamentary representatives of Kurdish origin or those who sympathized with the Kurdish cause had been imprisoned or forced into exile.

2. On 14 May 1997, in flagrant violation of the Charter of the United Nations, the Turkish army had launched a sweeping new military offensive in the north of Iraq, targeting mainly Kurdish civilians who had fled Turkey to escape from atrocities committed by the Turkish security forces. Many civilians, including women and children, had been killed during the bombardments and the army had, according to reliable sources, carried out extrajudicial executions.

3. Later, on 4 June 1997, the State Security Court in Ankara had sentenced 31 members of the pro-Kurdish People's Democratic Party to prison terms of up to six years. On 3 May 1997, the same court had closed down the Democrasi daily newspaper, which advocated respect for human rights and defended the Kurdish cause. A young Kurd, Mr. Faysal Akcan, had recently been sentenced to 22 years in prison for allegedly tearing down a Turkish flag. The Turkish authorities had also closed down several offices of the Human Rights Association in Turkey.

4. The World Federation for Democratic Youth called on the Sub-Commission to break the silence surrounding the tragedy of the Kurds by adopting a resolution condemning the massive violations of human rights in Turkey and making recommendations on how the Turkish Government could improve the situation.

5. Mr. AL-JAMRI (African Commission of Health and Human Rights Promoters) said that the human rights situation in Bahrain had deteriorated markedly in recent years, as could be seen from reports on human rights violations in that country published by Amnesty International and Human Rights Watch in September 1995 and July 1997 respectively. The list of violations was very long, including prolonged detention without charge or trial, denial of the

right to a lawyer, unfair trials, denial of the right to appeal against a death sentence, systematic torture, extrajudicial executions, abuse of women and children and discrimination against indigenous populations.

6. The situation was a result of the dissolution of the elected Parliament in 1975 and the Government's refusal to restore the rule of law. The rights to freedom of expression and assembly, although guaranteed by the Constitution, were systematically violated. Many people had been sacked for demanding the restoration of the dissolved Parliament. The poet Ali Hassan Yousif had been imprisoned for publishing a collection of poems and and the journalist Abbas Salman of Reuters news agency, had been detained for a day in September 1996 for writing an article on the political unrest. Ms. Ute Meinel, of the German news agency DPA, had been expelled in July 1997 for the same reason.

7. Shiites were considered enemies by the Government and were subject to systematic discrimination, particularly with regard to access to higher education and public office. Their properties and places of worship were routinely ransacked. Not even children were spared. In July 1997, a seven-year-old girl, Iman Hassan Ibrahim, had been detained and abused. Moreover, the Government had brought in large numbers of people from the Syrian desert in order to change the population, in which Shiites formed the majority.

8. In view of the Bahraini authorities' refusal to allow non-governmental organizations and distinguished representatives of the European Parliament to visit Bahrain, the African Commission of Health and Human Rights Promoters requested the Sub-Commission to examine the human rights situation in Bahrain and make recommendations to the Commission on Human Rights on how to remedy the situation.

9. Mr. FABBRO (International Prison Watch) said that the conditions under which 130 Lebanese were being held in the illegal prison in Khiam, controlled by the South Lebanon Army, were very harsh. For example, after their arrest, prisoners were held incommunicado in a cell 90 centimetres square for between 10 days and 2 months. The deaths of 11 prisoners since the detention centre had been set up were tied in with torture and lack of medical care. Representatives of the International Committee of the Red Cross, as well as lawyers and members of prisoners' families, had been denied access to the prison from 1987 to 1995. Some prisoners, including Ms. Souha Fawaz Beshara, had been imprisoned for many years without having been charged or sentenced.

10. In Mexico, conditions in the two high-security detention centres were deplorable. The criteria and reasons for placing someone in those centres were subjective: detainees were frequently stripped and searched and could be punished for such trivial reasons as possessing a sweet away from the dining hall. The cells had no windows or ventilation. Visitors were also stripped and searched and were not allowed to take food or anything else to the detainees. Fifteen people with serious psychiatric problems were being held in the centres, in violation of the regulations. Anna Maria Vea Smith had been kept in a single cell in the isolation wing of the high-security centre at Puerte Grande de Jalisco since 6 September 1996, there being no arrangements for the detention of women.

11. In France, overcrowding in penal establishments (58,856 prisoners when the official capacity was 49,552) meant that prison conditions had deteriorated and the principle of imprisonment on one's own, contained in the Code of Criminal Procedure, was not observed. The lack of space even forced some prisoners to sleep on the floor. Self-mutilation and hunger strikes were also becoming more and more frequent, and the suicide rate in prison had doubled in 10 years. Moreover, prisoners with a serious disease had to rely on a presidential pardon, a cumbersome, slow and uncertain process, to grant them early release.

12. Prisoners' rights were violated in many other countries too. International Prison Watch therefore called on the Sub-Commission to appoint a special rapporteur on prisons.

13. Mr. LEBLANC (Franciscans International) said that the rights of religious minorities in Pakistan were being seriously violated, even though they were guaranteed by various international human rights instruments as well as by Pakistan's Constitution. On 6 February 1997, a group of Muslims had attacked the village of Shantinagar, which had a mostly Christian population. Hundreds of policemen had been present but had done nothing to arrest them. On 5 and 6 February 1997, churches, shops and houses belonging to Christians had also been destroyed in Khanewal and surrounding districts. The Government of Pakistan had given each family affected the modest amount of US$ 125 as compensation, but it had not yet carried out its promise to take special steps to replace title deeds, identity cards and certificates destroyed during the attacks.

14. In the circumstances, Franciscans International supported the statement by the Justice and Peace Commission of the Catholic Church in Pakistan, which, inter alia, called on the Government of Pakistan to make public the findings of the commission of inquiry into the events, to prohibit all discrimination based on religion and to guarantee the equality of all citizens before the law. Franciscans International also called on the Working Group on Minorities to request the Government of Pakistan to restore the rights of the people of Shantinagar and Khanewal and to take constitutional and other measures to protect the rights of religious minorities.

15. A number of reports indicated a general deterioration in the human rights situation in Mexico, particularly in the State of Chiapas, which was the setting for a low-intensity conflict between the army and rebels. Together with the Bartolomé de las Casas Human Rights Centre, Franciscans International requested the Mexican Government to pursue peace negotiations in Chiapas and to reduce the level of military action in that State, urged national and international organizations to ensure the security of all people living in Chiapas, called on the Sub-Commission and the Commission on Human Rights to recommend that the International Committee of the Red Cross should set up a camp for displaced people, and requested the World Bank to ensure that the economic project it was supporting in Chiapas came to fruition. Franciscans International also recommended that negotiations between the Government and opposition forces should be resumed in accordance with the San Andres Agreements, that the State of Chiapas should immediately be demilitarized, that the activities of all paramilitary groups should be brought to an end, that the Government should find a solution to the armed

conflict (which was primarily the result of the poverty and exploitation of the indigenous population), that the defamatory campaign against the Catholic Church in San Cristóbal de las Casas should cease, that communities should be given the opportunity to reach agreement without outside interference and that favourable conditions should be created to hold free elections and facilitate the democratic transition in Mexico.

16. In conclusion, Franciscans International called on the Sub-Commission to urge Mexico to agree to a visit by the Special Rapporteur on extrajudicial, summary or arbitrary executions of the Commission on Human Rights, and to appoint a special rapporteur to study the human rights situation in Mexico.

17. Ms. KEYHANIZADEH (International Falcon Movement) pointed out that the human rights situation in Iran had worsened considerably over the past year. For example, the number of executions had risen yet again. It was widely known that many of those sentenced to death for drug trafficking, corruption or espionage had actually been executed for political reasons. The situation in the prisons was also critical. In recent weeks, 12 political prisoners had been killed during protests against prison conditions. Prisons were overcrowded as a result of the mass arrests carried out by the regime, the number of prisoners having increased by 40 per cent in one year. Meanwhile, no information was available on the hundreds of political prisoners held in a special wing of the Adelabad prison in Shiraz.

18. Peaceful demonstrations organized by the residents of various cities had been brutally suppressed. In Kermanshah, many demonstrators had been killed in December 1996. More than a thousand people had been arrested and their fate was still unknown. The crackdown on writers and intellectuals had reached new heights; several had been arrested, or had disappeared or been killed. Women were increasingly victims of the misogyny of Iran's fundamentalist regime, which claimed its repressive policy had its basis in Islam, whereas that religion advocated equality, compassion and emancipation.

19. The despotic regime of the mullahs was not content to trample on the fundamental rights of Iranian citizens. It also had opponents living in exile assassinated, as had been confirmed by a Berlin court in April 1997 after a thorough inquiry lasting three years. A Swiss investigating magistrate had also announced that the order to assassinate Professor Kazem Rajavi had been given by a senior Iranian government official.

20. In view of the human rights violations committed by the Iranian regime and the rise of State terrorism, it was of paramount importance that the Sub-Commission should closely monitor the situation in Iran.

21. Mr. KAWOWO (International Working Group for Indigenous Affairs) drew the attention of the Sub-Commission to the human rights situation in Bougainville. In March 1997, public protests by the people of Papua New Guinea against the decision of their Government to send Sandline mercenaries to Bougainville had led to the cancellation of the decision and the resignation of the Prime Minister, Finance Minister and Defence Minister. Six weeks later, three offices of non-governmental organizations in Papua New Guinea had been raided by police searching for documents on the Sandline mercenaries. The police had also arrested four human rights activists accused of playing a leading role in

organizing the protests and they were to be tried on 29 August 1997. Leaders from Bougainville had shown their willingness to find a lasting solution to the Bougainville crisis by attending the meeting in Burnham, New Zealand, in July 1997 and then releasing, in accordance with the Burnham Declaration, the five soldiers held as "prisoners of war" since September 1996. New Zealand, for its part, had made considerable efforts to find a peaceful solution to the problem by hosting the Burnham meeting, having already played a part in the first major meeting between rebel leaders and the Government of Papua New Guinea in 1990, which had led to the Endeavour Accord and the deployment of a regional peace-keeping force. The onus was thus on the Government of Papua New Guinea to engage in seeking a solution to the Bougainville crisis.

22. The International Working Group for Indigenous Affairs therefore requested the Sub-Commission to recommend that the High Commissioner for Human Rights should call on the Government of Papua New Guinea to take immediate action to restore lasting peace and justice to Bougainville in accordance with the Burnham Declaration, immediately establish the human rights commission it had promised at international conferences but had not set up, and issue an immediate invitation to the Special Rapporteur on the question of mercenaries, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Representative of the Secretary-General on internally displaced persons to visit Bougainville. The Sub-Commission should also recommend that the High Commissioner for Human Rights should request the Government of the Solomon Islands to invite immediately the latter two rapporteurs to visit the Solomon Islands.

23. Mr. KIRUPAKAREN (International Educational Development) denounced the genocide of the Tamils carried out by the Sri Lankan Government and the occupation of traditional Tamil areas by the Sri Lankan army, consisting almost exclusively of Sinhalese troops. The Sri Lankan Government's illegal and immoral "peace through war" policy had resulted in the displacement of more than half a million people and the occupation of traditional Tamil areas in breach of international law. The Sri Lankan Government was violating the fundamental rights of the Tamil people in those areas, depriving them of food and medical supplies in violation of humanitarian law, particularly the duty to treat civilians humanely in accordance with article 3 of the 1949 Geneva Convention relative to the Protection of Civilian Persons in Time of War. The Sri Lankan Government was also violating article 55 of that Convention, under which the Occupying Power had the duty of ensuring the food and medical supplies of the population living in the occupied territory. Also, according to the list of war crimes drawn up by the commission of the Paris Peace Conference in 1919, deliberate starvation of civilians was recognized as a war crime. Hence the Sri Lankan Government, whose intention was to destroy the Tamils as a national community, was also guilty of the crime of genocide.

24. He reminded the Sub-Commission that the Working Group on Enforced or Involuntary Disappearances had noted in its 1995 report that Sri Lanka had the second highest number of "disappearances" in the world, after Iraq. At the fifty-third session of the Commission on Human Rights, the representative of the United States of America had expressed particular concern at the disappearance of over 700 people in Jaffna. The barbaric practice of "disappearances" was a violation of article 3 of the Universal Declaration of

Human Rights as well as of customary international law. The Sri Lankan Government had also used rape as a weapon in the occupied territories; cases in which Tamil mothers and children had been raped were well documented. Rape had been recognized as a war crime by the International Criminal Tribunal for the Former Yugoslavia.

25. In view of all those abuses, International Educational Development urged the Sub-Commission to adopt a resolution recommending that the Security Council should set up a tribunal to try Sri Lankan war criminals. As emphasized in the resolution submitted by non-governmental organizations at the fifty-third session of the Commission on Human Rights, the withdrawal of the Sri Lankan occupying forces from traditional Tamil areas was an essential precondition not only for ending the genocide of the Tamil people but also for finding a lasting political solution to the conflict that was tearing Sri Lanka apart. A lasting and genuine peace could only be achieved by means of negotiations undertaken willingly and on an equal footing by the two parties to the conflict. Peace should also be based on the inalienable right of peoples and individuals to decide their own future. It was worth recalling that the right to self-determination, which stemmed from the recognition of human dignity, was an integral feature of democracy.

The public part of the meeting rose at 4.10 p.m.